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Alexis De Tocqueville
Democracy in America, Vol. I

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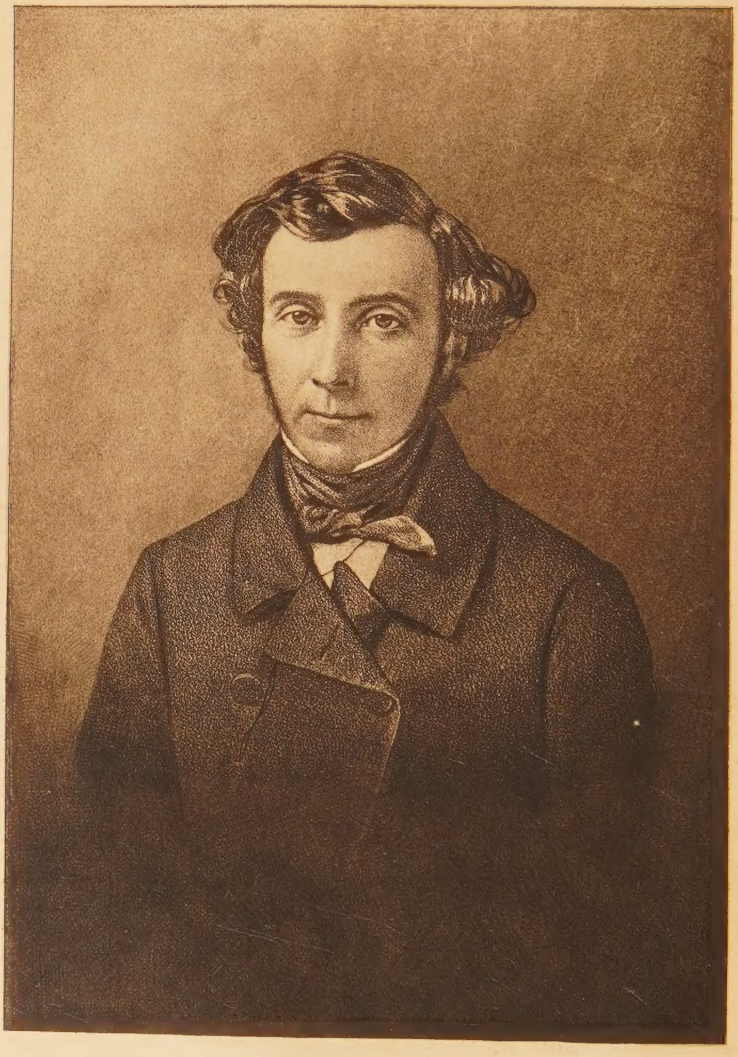

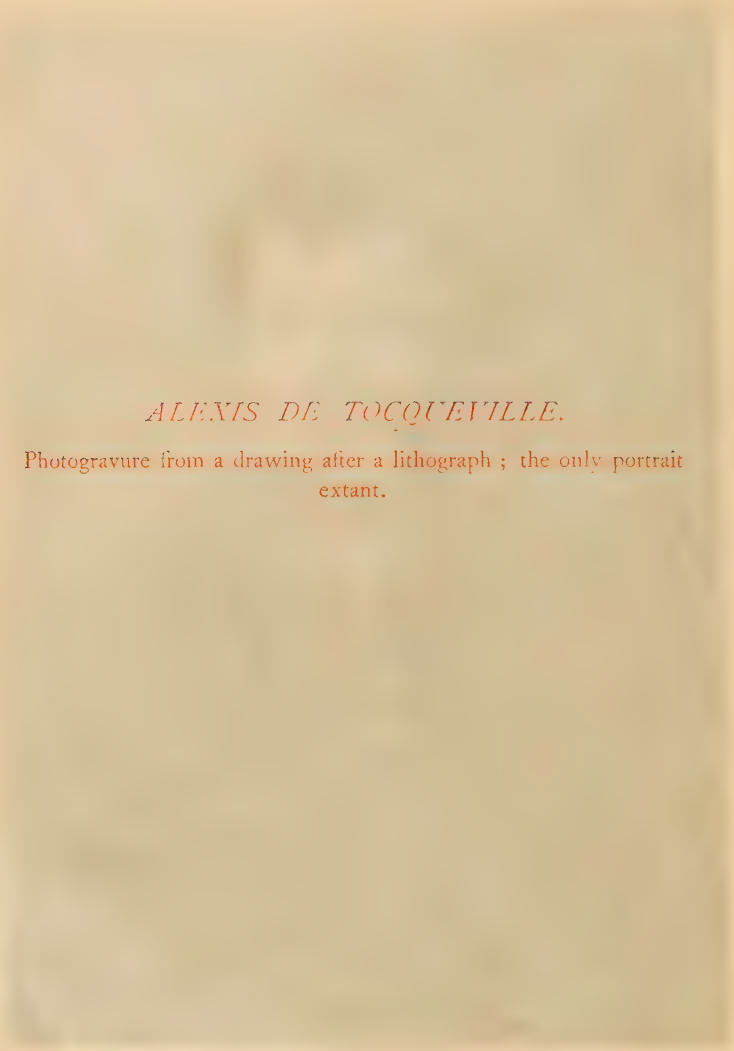

ALEXIS DE TOCQUEVILLE.

Photogravure from a drawing after a lithograph ; the only portrait extant.

Democracy in America

By

Alexis De Tocqueville

Translated by Henry Reeve

With a Critical and Biographical Introduction
by John Bigelow

Illustrated
Volume I

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1899

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ALEXIS DE TOCQUEVILLE

IT has been the privilege of the French nation to place the United States twice under obligations, the importance of which there is little danger of exaggerating. The first was the timely aid it rendered the American colonies in their struggle for independence, without which they might have remained indefinitely dependencies of the mother-country. Half a century later France sent to us one of her most gifted citizens to explain the structure which had been erected on the foundations she had helped to lay, and to show to the world how much wiser we and they had builded than we knew. The latter service was, in a measure, the complement of the first. "De la démocratie en l'Amérique," by Alexis Charles Henri Clérel de Tocqueville, was the nearest approach to a philosophical exposition of the fundamental principles of popular sovereignty that had ever been written. It was a work, too, we venture to say, that has not yet been superseded by any other presenting more incontestable, profound, and novel suggestions, with so few that have not borne the test of criticism and of time.

It is a curious coincidence that as we were largely indebted to one of the most aristocratic families of France for much of the interest which the government of Louis XVI was persuaded to take in overturning the dynastic supremacy of England in America, and laying the foundation for democratic governments in many of her colonies, so it was a member of another family of scarcely inferior

rank who revealed to the world the most enduring features of the august structure which had been erected upon those foundations. The student of national policies would not be apt to look for a champion or even an apologist of democracy to one of the porphyrogeniti, owing his privileges to the artificial stratification of human society. And yet De Tocqueville's book had the singular and distinguished merit of finding equally enthusiastic readers on both sides of the political equator, the Conservatives as well as the Liberals finding so much in it to their respective tastes that neither could exclusively appropriate its doctrines to partisan ends, while both found in it material from which they were able to fashion weapons of which they found it convenient to avail themselves.

To account for the notable impartiality of this work, written at a time when it was more of a reproach at any court in Europe to be called a democrat than to be called a profligate, a liar, or a gambler, it is necessary to glance at some of the peculiar circumstances under which its author was born and bred, and which may be said to have educated him for this, the monumental work of his life. De Tocqueville's father, the Count de Tocqueville, had distinguished himself as an economist and as an administrator during the Empire and the Restoration, as Prefect of Metz, of Amiens, and of Versailles, and as a peer of France. He was also the author of two standard historical works, one entitled "Histoire philosophique du règne de Louis XV," and the other "Coup d'œil sur le règne de Louis XVI." His mother was a granddaughter of Malesherbes, one of the illustrations of the French magistracy, at whose country place the Count and Mademoiselle le Pelletier were married only a few weeks after the execution of Louis XVI. It was the high noon of the French Revolution, when it might have been said of Paris, as in Shakespeare's "Tempest," "Hell has broke loose, and all the devils are here!" A dreary honeymoon was in prospect. Six months had scarcely elapsed when the eldest

daughter of Malesherbes and her husband, M. de Rosambo, were torn from the Château Malesherbes by the revolutionary emissaries. A few days later Malesherbes himself and all the other members of his family were seized and sent to the scaffold with his daughter and another of his granddaughters, then recently married to the brother of Chateaubriand the poet. With a refinement of cruelty peculiar to the age, Malesherbes himself was reserved to the last, that the tortures of his death might be aggravated by witnessing the brutal murder of those who were most dear to him on earth. The young bride and bridegroom were also arrested and sent to the Conciergerie, where they remained for several months in daily expectation of sharing the fate of their kinsfolk, until the fall of Robespierre opened the doors of their prison and set them free.

Alexis was born in Paris, on the 29th of July, 1805, while his countrymen were glorying over the triumphs of Marengo and the coronation at Milan. He was brought up at home, and his education was moral rather than intellectual, for which the credit is to be divided between his parents and the Abbé le Sueur, whose death his pupil, then in America, deplored as an irreparable bereavement.

At the restoration of the Bourbon dynasty in 1815, the father was made prefect at Metz, and this led ultimately to the lad's being sent to the Imperial Academy at that place, where he took the prize in rhetoric in 1822—his first and only academical distinction. He always regretted that his scholastic education had been far from satisfactory. He was admitted to the bar in 1825. In 1826 he travelled with his elder brother through Italy and Sicily, and toward the close of the year he was appointed to a judicial office corresponding more nearly to that of assistant district attorney than to any other known to our land—that of juge-auditeur at Versailles, where his father had been recently named prefect. This was the beginning of a judicial career from which a kinsman of the Malesherbes, of the Lamoignons, and of the D'Aguessaus had every prospect of a dis-

tinction with which even De Tocqueville might reasonably have been content. Perhaps he should have been, though his friend and colabourer, De Beaumont, while admitting that his qualities were admirably suited to the magistrature, "doubted if that was the calling most suited to his abilities." Whether such was the case or not was not destined to be tested. The fires of the French Revolution had been covered up, but not extinguished; its heat was still felt, though for years it had been giving no light. Both its heat and its light reappeared in the Revolution of 1830, which brought a representative of the Orleans family to the throne in the person of Louis Philippe, and to France a quasi-parliamentary government.

Though his family were passionate royalists, and viewed with horror the new form of popular government which had floated to the surface, De Tocqueville regarded the result with the eye of a philosopher. He found that a spirit of freedom had been let loose among his country people in 1789, an echo of the Revolution beyond the Atlantic in 1776, which all the statesmanship of France had not been able effectually to conjure. He wisely concluded that the natural history of this monster—its uses if it could be domesticated, its extermination if it could not be—were better worth studying and understanding than any other problem of statecraft then in sight. The discouragement of any prospects of promotion in the magistracy under the new régime helped him to this conclusion, and he wisely determined that the best way to forecast the destiny of France was to study the genius of popular sovereignty in situ and on the throne which France had helped to establish for it beyond the Atlantic. He communicated his plans to his friend and colleague, De Beaumont, then Substitut du Procureur du Roi, who warmed to the suggestion. But as magistrates they could not leave without permission, for asking which some sufficient pretext must be assigned. This was found in a proposition to investigate the penitentiary system, which had proved successful in the United

States, while the defects of the prison system then prevailing in France were justly enough the subjects of much popular denunciation. Their application was favourably entertained by the Minister of Justice, and they sailed from Havre in the ship Havre for New York in April, 1831; but, in consequence of a gale encountered in sight of Long Island, the passengers, who were all ill, persuaded the captain to put into Newport, where they landed on the 9th of May, and on the following day a Providence steamer brought them to New York.

De Tocqueville remained in the United States until February, 1832, having meantime visited most of the States, all the principal cities, and interviewed many representative men of every class, from the President in Washington to the slaves in the South, who were supposed to be capable of shedding any light upon the problems he was endeavouring to solve. The reader will be interested in the list which follows of some of the prominent people interviewed by De Tocqueville in the progress of his journey, and whose views he thought fit to make a note of in his diary—interviews which, it is now apparent, had no inconsiderable weight in shaping his final judgments: Albert Gallatin; Governor Throop, of New York; John C. Spencer, afterward President Tyler's Secretary of State; Senator Gray, Jared Sparks, and William E. Channing, of Massachusetts; John Quincy Adams, then recently elected to Congress (the only member of that body who had previously been President of the United States); Brown and Mazerean, eminent barristers of Louisiana; Latrobe and Charles Carroll, of Baltimore; Nicholas Biddle, of Pennsylvania; Joel R. Poinsett, our Minister to Mexico; and Justice McLean, of the Supreme Court of the United States.

He spent twenty days—from the 20th of August to the 10th of September, 1831—in Canada. His observation there did not strengthen his faith in France as a colonizing power, and what he said upon that subject will apply with

equal force to all the Latin races. Recent events appear to lend a peculiar interest to the following and concluding portion of his reflections upon this subject:

"The history of the last ten centuries presents, it must be confessed, a singular spectacle. We see France undertake a vast colonial system. The plans are skilfully conceived, the places well chosen. They contemplate the union, by a continuous change of posts, of the waters of the St. Lawrence and the Mississippi, and thus founding in the centre of North America a new French empire, of which Canada and Louisiana were to be but outlets. Great sacrifices of men, of money, and efforts were made to accomplish this result. The Government was constantly occupied with these new establishments, and never for an instant relaxed its efforts to direct them; and yet, despite all those efforts, the colonies languished. The soil spread itself out in vain before the footsteps of the French. They did not penetrate the fertile deserts which surrounded them. The population scarcely increased at all, and ignorance did. The new society remained stationary. It gained neither power nor wealth. It finally, after a heroic resistance, succumbed to foreign aggression. Near to this, on the sea-coast, the English established themselves. Some are sent by the mother-country, others flee from her. Once on American soil, one would say they had become foreigners to England, so little did they seem preoccupied with their government. They have from the beginning their political assemblies and their judicial tribunals; they select most of their magistrates, organize their militia and police, and make laws. The home government does not meddle with their domestic affairs, looking only to the protection of their commerce and to their defence from enemies. And yet establishments thus abandoned to themselves, which cost neither money, care, nor efforts to the mother-country, double their population every twenty years and become centres of wealth and intelligence. . . . Another thing is to be considered. To found a distant colony, a nation

must be assured of having and preserving the empire of the sea." [1]

Immediately upon his return, De Tocqueville set himself to work upon his magnum opus, leaving to his friend and colleague the task of preparing the "Report on Prisons," which had furnished their excuse to the Minister of Justice for asking a leave of absence. The next three years spent on the work were probably the happiest of his life. His habits, he has told us, were as regular as those of a monk. "From early morning till dinner-time my existence is purely intellectual; I pass the evening at Mrs. Belam's" (the aunt of Miss Mottley, whom he married two years later), "where I enjoy long conversations with Marie, of which I never tire. The next day I do the same over again, and so on with wonderful uniformity, for since my return from England my books and Marie form all my existence."

In June, 1834, the first two volumes of "De la démocratie en Amérique" were ready for the press, and their subsequent fortunes lend a curious interest to the following account by De Tocqueville himself of the first reception of his manuscript by his publisher:

"On the day before yesterday I went again to Gosselin. If he had read my manuscript, the result of my visit would not have been flattering, for the more questions of his I answered about the book, the more frightened he became. He ended by telling me that he would print five hundred copies. I wondered, and he explained the motive." (What these reasons were, every one knows who has ever published a book.) "All this seemed to me very sensible. It is no less true that Gosselin is horribly afraid of losing, or at least of gaining very little, by my book. This was the moral that I drew from my visit. It is a humiliating part of an author's profession to be obliged to have to treat with one's publisher as if he were one's superior."

[1] "Œuvres complètes de Alexis de Tocqueville," vol. viii, p. 271.

De Tocqueville was then too inexperienced an author, and still too much of an aristocrat, to realize that in three respects Gosselin was his superior, for he could print, publish, and sell a book, while De Tocqueville could do neither, and those were precisely the services he required of Gosselin, and no other. The book appeared in January, 1835. In April, De Tocqueville writes again to his friend De Beaumont:

"Yesterday morning I went to Gosselin. He received me with his most beaming face, and said, 'Ah! so it appears that your book is a masterpiece.' Does this not paint the tradesman? I sat down. We talked about the second edition. We were obliged to make a bargain, which I did as awkwardly as possible, and looking like a little boy before his master. In short, I found no objections to make to any of his proposals, and, after putting on my head the hat I had been twirling in my hand for the last quarter of an hour, I went away convinced of two things: First, that Gosselin intended to behave well; and, secondly, that, though a little man, I am in business a great dunce." Which was no doubt true, as it is with most authors in their première couche. Gosselin had no right to expect for any book treating of American democracy with respect and philosophical earnestness, a demand in those days for more than five or six hundred copies, still less any such demand as that which awaited the book then coming to the birth. De Tocqueville was as much surprised by its reception as its publisher. Within a month after its publication he wrote to a friend:

"Hitherto the book is succeeding wonderfully. I am astonished at its popularity, for, belonging to no party, I feared, if not a failure, at least a cold reception. I am welcomed everywhere, and receive advances everywhere that surprise me. Royer Collard sent for me and said, with many compliments, that, in his opinion, my book was the most remarkable political work that had appeared in thirty years. I am much astonished at my position, and

quite confused by the praises sounding in my ears. There was a lady of Napoleon's court whom he chose one day to make a duchess. In the evening she went to a party, and hearing herself announced by her new title, forgetting that it belonged to her, made way for the great lady to pass. I assure you that I feel like her."

The book was immediately translated into all the modern languages, and in 1864 it had reached the fourteenth edition in France. It became a text-book of constitutional law in several of the colleges in the United States. It was translated into English by Henry Reeve, late editor of the "Edinburgh Review," and by John C. Spencer, of New York, and has passed through several editions in the United States. M. Ampère addressed De Tocqueville a miratory epistle in verse, which appeared in the "Revue de Paris." John Stuart Mill reviewed the work at length both in the "Edinburgh Review" and in the "London and Westminster Review." It was also reviewed by all the leading periodicals in England, France, and the United States. Edward Everett devoted two articles to it in the "North American Review." The French Academy, which annually crowns literary works that it regards as of greatest utility, awarded, in 1836, the extraordinary prize of eight thousand francs to "Democracy in America," six thousand francs being the maximum sum usually awarded for such purposes. Two years later its author was chosen a member of the Academy of Moral and Political Sciences, and, as evidence of the zeal of the Academy to make this acquisition, M. Jouffroy was transferred from the Moral to the Philosophical Section of the Academy to make a place for him.

"Blackwood's Magazine," whose sympathies for democracy were such as the wolf in the fable entertained for the thirsty lamb, said, "M. de Tocqueville is one of the greatest—perhaps the very greatest—of the political writers of the present day" (the day here referred to was that in which Guizot, Cousin, Villemain, Thierry, De

Barante, Montalembert, and Gasparin were writing history). "Alone of all his contemporaries his best works will bear a comparison with those of Machiavelli and Bacon. Less caustic and condensed than Tacitus, less imaginative and eloquent than Burke, he possesses the calm judgment, the discriminating eye, and the just reflection which have immortalized the Florentine statesman and the English philosopher. He is a Burke without his imagination, a Machiavelli without his crimes." [1]

The work was more widely read in America than elsewhere, not merely because it was a thoughtful, wise, and discriminating study of American institutions, but because it was the first book written about the United States by any European of repute that was not conceived in a spirit of disparagement and detraction. Cobbett gave the keynote to all English opinion about them when, speaking of the way in which some of the provinces had been colonized, he said "their Adam and Eve came out of Newgate." This was deemed such a satisfactory solution of the political problems presented in America that it promptly had the freedom of the English periodical press. "Fraser's Magazine" reproduced it in a less epigrammatic but more impertinent form during the presidency of General Jackson in this way: "Any one initiated into the secrets of the book trade must be aware that copies of the 'Newgate Calendar' are in constant and steady request throughout President Jackson's dominions, most families being anxious to possess that work from motives connected with heraldry and genealogical research."

It is not my purpose, for there is no occasion in this

[1] Blackwood was thirteen years in making up its mind about this book, and in May, 1847, broke silence in an article purporting to be a review of the "Histoire philosophique du règne de Louis XV," by M. le Comte de Tocqueville, a book written, not by the author of "Democracy in America," but by his father. Throughout the article, however, the son is treated as the author of both works, while the title of his most famous work is not given as one of the books under consideration at all. Maga in those days must have been nodding.

place, to analyze or describe the contents of the work now submitted to the public. They are before the reader of these pages in as nearly the admirable guise which the author desired them to be in as the English tongue can convey them. It may interest the reader, however, to know what the author gave out in his private correspondence, as the ruling idea he wished to establish in his treatise, and what he regarded as some of his special qualifications for undertaking it. Such a statement we are able to quote from a letter to his friend Stoffels, written in February, 1835:

"I wished to show what in our days a democratic people really was, and by a vigorously accurate picture to produce a double effect on the men of my day. To those who have fancied an ideal democracy a brilliant and easily realized dream, I endeavour to show that they had clothed the picture in false colours; that the republican government which they extol, even though it may bestow substantial benefits upon a people that can bear it, has none of the elevated features with which their imagination would endow it; and, moreover, that such a government can not be maintained without certain conditions of intelligence, of private morality, and of religious belief that we, as a nation, have not reached, and that we must labour to attain before grasping their political results. To those for whom the word democracy is synonymous with destruction, anarchy, spoliation, and murder, I have tried to show that under a democratic government the fortunes and rights of society may be respected, liberty preserved, and religion honoured; that though a republic may develop less than other governments some of the noblest powers of the human mind, it yet has a nobility of its own; and that, after all, it may be God's will to spread a moderate amount of happiness over all men, instead of heaping a large sum upon a few by allowing only a small minority to approach perfection. I attempted to prove to them that, whatever their opinions might be, deliberation was no longer in

their power; that society was tending every day more and more to equality, and dragging them and every one else along with it; that the only choice lay between two inevitable evils; that the question had ceased to be, whether they would have an aristocracy or a democracy, and now lay between a democracy, without poetry or elevation, indeed, but with order and morality, and an undisciplined and depraved democracy, subject to sudden frenzy or to a yoke heavier than any that has galled mankind since the fall of the Roman Empire. I wished to diminish the ardour of the Republican party, and, without disheartening them, to point out their only wise course. I have endeavoured to abate the claims of the aristocrats, and to make them yield to an irresistible future, so that the impulse in one quarter and resistance in the other, being less violent, society may march on peaceably toward the fulfilment of its destiny. This is the dominant idea in the book—an idea which embraces all the others, and that you ought to have made out more clearly. Hitherto, however, few have discovered it. I please many persons of opposite opinions, not because they penetrate my meaning, but because that, looking only to one side of my work, they think they find in it arguments in favour of their own convictions. But I have faith in the future, and I hope that the day will come when all will see clearly what now only a few suspect."

In a letter to one of his English friends he wrote:

" Democratic and aristocratic prejudices are alternately ascribed to me. I should perhaps have had these or those had I been born in another century or in another country, but the accident of my birth has easily enabled me to defend myself against either tendency. I came into the world at the end of a long revolution, which, after destroying the former state of things, had created nothing lasting in its place. Aristocracy was already dead when I began to live, and democracy was not yet in existence. No instinct, therefore, impelled me blindly toward one or

the other. I was an inhabitant of a country which had been for forty years trying everything, and stopping definitely at nothing. I was not easily addicted to political illusions. Belonging myself to the old aristocracy of the country, I had no natural hatred or jealousy of aristocracy, nor had I any natural love of it, for people only attach themselves to what is in existence. I was near enough to judge it with knowledge, far enough to judge it without passion. The same may be said of the democratic element. No interest gave me a natural or necessary propensity to democracy, nor had democracy inflicted upon me any injuries. I had no particular motive to love it or to hate it, independently of my own reason."

As has been ingeniously said, De Tocqueville was, or at least thought himself, binocular, seeing correctly because he saw the object in two positions at once, the angle of one point of vision correcting the obliquity of the other. " If ever political writer had reason to believe that he had laboured successfully to render his book incapable of partisan uses," wrote John Stuart Mill, " M. de Tocqueville was entitled to think so. Though his theories are of an impartiality without example, and his practical conclusions lean toward Radicalism, some of his phrases are susceptible of Tory application, and one of these is the ' tyranny of the majority.' This phrase was forthwith adopted into the conservative dialect and trumpeted by Sir Robert Peel in his Tamworth oration, when, as booksellers' advertisements have since frequently reminded us, he earnestly requested the perusal of the book by all and each of his audience. And we believe it has since been the opinion of the country gentlemen that M. de Tocqueville is one of the pillars of Conservatism, and his book a definitive demolition of America and of democracy. The error has done more good than the truth perhaps would have done, since the result is that the English public now know and read the first philosophical book ever written on democracy as it manifests itself in modern society—a book the essential doctrines of

which it is not likely that any future speculations will subvert, to whatever degree they may modify them, while its spirit and the general mode in which it treats its subject constitute it a beginning of a new era in the scientific study of politics."

Henry Reeve, who was asked by some publisher to translate this book, said in his diary, recently published: "M. de Tocqueville's book, 'De la démocratie en l'Amérique,' is a work of first-rate order—perhaps the most important treatise on the science of states that has appeared since Montesquieu—and nothing can be more worthy of attention and thought. I declined translating it because I am determined never to write a sentence which I do not believe in my inmost heart. . . . I will not promulgate an erroneous doctrine." Reeve was then twenty-two years old, and his youth is some excuse for this boyish gasconade. He did not have to live very long to change his mind and translate the book, in spite of what he termed "its erroneous doctrine." In less than a month, having met with De Tocqueville at dinner, he says in his diary: "He is a very agreeable man, and the more I see of his book (which I have now nearly finished) the more I like it. My first impression as to its democratic tendency was entirely erroneous. He regards democracy as the inevitable lot of Europe, and as an evil which we had best prepare to meet, since we can not escape it."

Because he understood De Tocqueville to treat democracy as a scourge which Europe can not escape, and therefore must prepare to make the best terms she could with it, he reconsidered his determination. Thirteen years after De Tocqueville's death, Reeve gave his more mature opinion of our author, of which it is but just to give him the benefit: "If there be any truth or merit in the opinions I have formed on the state of France and the history of her revolutions, their value is due in great part to the author of 'Democracy in America.' . . . My own opinions were no doubt affected by the influence of that

pure and subtle intellect, and the highest merit I would venture to claim for them was their conformity with his principles."

While lost in admiration of what popular sovereignty had accomplished and promised in the United States, De Tocqueville never quite satisfied himself that it could endure, and, while ardently desiring greater freedom for France, he had no faith whatever in the practicability or durability of popular sovereignty there. I doubt if there was any prominent statesman in Europe who would have differed with him on any of these points. Had he lived to our time, many of his views—these among the rest—would doubtless have undergone serious modification. He would have found his own beloved country " with a church without a bishop and a state without a king." He would have found a popular government in his native land with a democratic Constitution, which has already endured more than three times as long as the average longevity of the governments of France for the previous three centuries, and as likely to outlive all the dynastic governments in Europe as to be outlived by any one of them. He would have found at the head of that government, for the first time in its history, a man who was the free choice of the people of France; a man who had been the architect of his own fortune instead of being merely the heir to one; and under whose benign rule France is enjoying more of the advantages of a liberal and enlightened government than at any previous period of her history.

While at work on the second part—the last two volumes—of his " Democracy in America," De Tocqueville was urged to allow himself to be nominated as a candidate for the Legislative Chambers by the electors of two arrondissements—that of Cherbourg and that of Valognes. M. Molé, the president of the Conseil des Ministres, a kinsman of De Tocqueville, directed the Prefect of Valognes to support De Tocqueville strongly. When De Tocqueville heard of this, he addressed Count Molé a letter, dated

September 12, 1837, in which, after a brief reference to those facts, he adds:

"I will say at once, sir, that in so numerous a body, where parties are balanced, it is very doubtful if the direct action of the Government is the means best adapted for success. But, in any event, I will say that it is impossible for me to accept an official candidature. Under other circumstances such an avowal on my part to the official representative of Rouen would appear very extraordinary. But I know to whom I write, and, if the president of the council blames me, I shall boldly appeal to M. Molé, to whose esteem, permit me to say, I attach more value than to his support, and of whose approval of my course I feel sure. You know well, sir, that I am not an enemy of the Government in general, nor especially of those who rule at present. But I wish to be in a condition to give a free and intelligent co-operation, which I could not do if I allowed myself to be nominated by the Government. There are those who on entering the Chamber forget the means by which they did it. I am not one of them. . . . You have permitted me to consider you as a relative and a friend; I address you now as both."

To this specimen of what in modern political parlance would be called the mugwumpery of adolescence, Count Molé sent the following reply, dated Paris, September 14, 1837, which is too admirable both in form and substance to be omitted from any account of De Tocqueville's public life:

"My dear Sir: I am in receipt of a letter from you which demands a prompt and ample reply. I will return frankness for frankness, and since from beginning to end I do not share any of the sentiments or principles which inspired you to write it, I will have the courage to tell you so. At the outset I disclaim and, if need be, protest against the distinction which you make between the president of the cabinet and M. Molé. If the latter had need to efface

himself to make a place for the former, he would not have hesitated to prefer the least of his moral or political convictions to power, or to all the advantages which are attributed to it. It is not only in the exercise of political power, but in all the affairs of life, we must accept battle for the good against the evil. If one meddled with things only where he would be sure of doing everything which would be thought good and true, without compromise, he could not manage even his private affairs. He must sit with folded arms. I am now in power, doing, as you would in my place, all the good and preventing all the evil I can with all the resources which circumstances and my faculties furnish. The first of duties, in my eyes, is to contend at the elections, as elsewhere, for the principles of those whose cause I maintain, whom loyally I defend, and who extend to me their loyal support. I do not admit that it is to submit to a yoke by which one's delicacy or pride must suffer, to enter the Chamber through our influence, nor that it would be a betrayal of an engagement to separate from us later upon a question on which one could not in conscience and with convictions support us. All this seems very worldly (terre à terre), I know, in the eyes of those seekers of popularity who regard power, by whatever hands it is wielded, as the presumptive enemy of society. But I will permit myself to ask if you believe you will be more free from engagements if you owe your success to the Legitimists, to the Republicans, or to any shade of the Left than to the Moderate party. You must choose. Isolation is not independence, and you will be more or less dependent on those who elect you. The ministerial party does not consist solely of those who owe their official existence to the ministers; it consists mainly of men sharing its views, and believing the welfare of the country will be promoted by supporting it and by its triumph over its adversaries. It is among such men, my dear sir, I should have been proud and happy to see you. You do not wish it. You have almost said it would make you blush. Be

it so. Indeed, I deserved that you should speak to me with this frankness. But you are incapable of believing that I take the duties with which I am charged, 'si peu au sérieux' as to desire to see you win under the flag of our opponents. My duties, as you must know, are of the most painful as well as most onerous that a man can undertake. For me it involves more sacrifices than for many, because to it I must sacrifice not only my intellectual and moral tastes, but all my habits of life completely. But I should feel that I was failing in the purposes of Providence if I did not meet my destiny with courage. I feel that in existing circumstances the country would run some risk if power should actually pass to other hands. If I do not deceive myself, honest and sensible men owe me some esteem, even some encouragement and support. Now, to resume, it shall be done as you wish. I have urged your selection, inside as well as outside of the cabinet, against all comers 'à l'outrance.' I confess it. I do not know your prefect, but apparently he has divined my wishes. To-day I shall tell the minister that we can not support you anywhere. Our friends—for we have some—will fight you, for in the matter of an election neutrality is impossible. If you are chosen, I shall congratulate you all the more. Permit me to add that my pleasure will be increased by my expectation that experience in affairs and with men may be able to draw you nearer to those unfortunate ministers of whom it appears to you now so disastrous to have the support. In whatever ranks you may place yourself, you will be none the less for me a kinsman and a friend whom I honour and love, endowed with one of the most elevated natures and rarest talents which our epoch has produced. MOLE."

Other letters followed this somewhat combustible correspondence, which have not been thought suitable for publication, but by a letter from De Tocqueville, written about ten days after that from Count Molé, relations of

the most friendly and even affectionate character appeared to have been established, but too late to insure the candidate's election. Though he was already famous as the apostle of democracy, the cry of "No aristocracy!" and the opposition of the Government were too much for him. His opponent was elected by a small majority, and De Tocqueville shut himself up with new energy to complete the second part of his "Democracy," which went to the printer in the autumn of 1839. In the spring of that year, however, he was elected as deputy to the Chamber, by an overwhelming majority, from the arrondissement of Valognes, which he continued to represent for the succeeding nine years, until the Revolution of 1848 and the flight of Louis Philippe. In May of that year the department of La Manche sent him as its representative to the Constituent Assembly, where he was placed on a committee for revision of the Constitution, with results far from satisfactory to himself or to any one else. In October of that year he was sent to represent France at a conference in Brussels, the object of which was the mediation of France and England between Austria and Sardinia. Two of the results of the election in December of that year were the election of Louis Napoleon as President, and the selection of De Tocqueville as his Minister of Foreign Affairs. He held this office but four months. The act of October 31, 1849, separated him from the administration, though he still held his seat as deputy. He was present at the memorable session of the night of the 2d of December, 1851, and with two hundred of his colleagues was arrested and sent to the barracks of the Quai Dorsay, whence the same night he was transferred to Vincennes. De Tocqueville thus briefly summed up his career as a cabinet minister in a letter to a friend:

"I have contributed to maintain order on the 13th of June, to preserve the general peace, to improve the relations of France and England. These are recollections which give some value to my passage through affairs. I

need hardly say anything to you of the cause that led to the fall of the cabinet. The President chooses to govern alone, and to have mere agents and creatures in his ministers. Perhaps he is right; I don't examine that right. But we were not the men to serve him on those terms."

This was the end of De Tocqueville's official life. He returned to his estate in Normandy, and in the quiet and repose of country life set himself down to write the "History of the French Revolution," a work of which he lived to write only the introduction, "L'ancien régime et la révolution," to which Mr. Reeve, who translated it, gave the more descriptive title, "On the State of Society in France before the Revolution," a marvellous study, of which M. Taine's recent and more elaborate work has not in the least dimmed the lustre.

We may no longer defer some references to the painful, almost tragic, conditions under which De Tocqueville reared the majestic literary monuments that perpetuate his fame. As early as 1829, in a letter to his friend De Beaumont, he spoke of having been "seized with one of those attacks in the stomach that you know, and so sharp a one at this time that fever followed. They were obliged to bleed me." He then adds: "Seriously, my dear friend, my health is beginning to make me really uneasy. It seems to me as if years were far from improving it; that bodily fatigue affects me more than formerly. I fear the life which we lead may increase the evil, so that in time I may become a valetudinarian. And this is not all. The hardest part to understand is, that I am afraid of being afraid; I mean, of my mind dwelling on the state of my body and aggravating its importance. I am alarmed at the room that my physical evils occupy in my imagination; at the distaste with which they cause me to regard the future and every sort of ambition—I might as well say, life itself. It is this moral weakness creeping over me, threatening to destroy the only virtue I really value in man—energy—that I especially dread."

We here find an early disclosure by De Tocqueville himself of the vice of his virtues—an inordinate ambition to be famous rather than wise, an infirmity doubtless both a cause and a result of his physical condition, unfortunately but too common in the world, and thus diagnosed more than a century earlier by La Bruyère: "He who knows how to wait for what he desires does not despair if it fails to come to him. He, on the contrary, who desires something inordinately, puts too much of himself into it to be sufficiently recompensed by success." De Tocqueville early in life found himself in this dilemma, and, as a consequence, was never content with his success. Two years after he had received the most unreserved homage of all the highest literary authorities in Europe for his book on America, and was crowned with exceptional honours by the Institut de France, he asked his friend De Beaumont if he had ever been entirely satisfied with anything he wrote. "That," he adds, "has never happened to me; always something above or below, on the right or the left, never the exact ideal which every man has eternally before his eyes, and which always flees from one trying to attain it."

Though he never appears to have assigned such a motive, it is probable that the hope of strengthening his constitution by travel and a change of climate had its influence in deciding him to visit the United States. In March, 1839, just after his election as a deputy, with which he was much elated, still a young man of thirty-four, he thus refers again to his health: "I have no longer at my disposal the iron constitution that you remember, which lent itself so kindly to the strong emotions and extreme activity of my mind. Excitement beyond a certain point fatigues me, and I now and then feel that I require rest. I can not help thinking that Providence, who has already bestowed on me so many keenly felt and elevated enjoyments, does not intend my life to be long. I am not strong enough to bear incessant work, yet inactivity kills me."

In November of the following year, writing to his

brother, he said: "I have lived long enough to know that there is no one thing in the whole world capable of fixing and of satisfying me. I have attained a success which I had no right to hope for at the beginning of my career, yet my happiness is not perfect. Often in imagination I fancy myself at the summit of human greatness; when there, I am not so dazzled but that the conviction forces itself irrepressibly upon me that the same painful sensations which I suffer here would follow me to that sublime altitude, just as my present sufferings are as like as possible to those of my younger days. The disturbing causes are different, but the mind itself is the same—restless, discontented, despising the good things of this world, yet constantly joining in the struggle for them, in order to escape from the painful lethargy into which it falls when for any time it is left for itself." As La Bruyère had expressed it, De Tocqueville put too much of himself into his desires to be satisfied with any success. He was in the condition of the Spartan with the stolen fox under his tunic preying upon his vitals.

De Tocqueville spent the remainder of his days in the pursuit of receding health, which he never succeeded in overtaking. In the spring of 1841 he sought a milder climate in Algeria. On the 6th of July he set out for Constantina under a burning sun, fell ill on the way with a malignant fever, and was carried on board a steamer back to Algiers, whence he returned to France as soon as he was well enough to bear the voyage. He passed the winter succeeding his retirement from the Ministry of Foreign Affairs in Sorrento for the benefit of its gentle climate, whence he returned abruptly to Paris when he saw the storm gathering in the Chambers, of which he was a member, which resulted in the coup-d'état of December 2, 1851, and his incarceration with two hundred of his colleagues at Vincennes. He was permitted to return to Sorrento in January of the next year, where he devoted his leisure and such strength as he had, to writing souvenirs of his career

as a minister, which appeared in the later edition of his works edited by his widow. While there he also planned his history of the French Revolution, to which he devoted the remaining years of his life, but of which only a fragment was published. This appeared in 1856. He did not even then appear to realize that he was never to recover his health, though his friends were not blind to the fact that he was daily and rapidly failing. Even while working on his "French Revolution," which in itself was almost a life task for a Herculean constitution, he was preparing to write a "History of the Establishment of the English in India," for which he accumulated a vast body of material. In June, 1858, he burst a blood-vessel, an event which evidenced the triumphs of an organic disease that for the preceding twenty years had been steadily undermining his constitution. He was sent to Cannes in November, and was then forced to acknowledge to his wife that he had gone south too late. On the 16th of April, 1859, in the fifty-fourth year of his age, he was released from a life which for some months had ceased to yield comfort or satisfaction to himself or to any one else. He left no children.

De Tocqueville never acquired an unconditional faith in popular sovereignty—that is, he never regarded it as the river which all nations must cross to reach the best results of civilization. He did not think it would answer for France, but he never surrendered his faith in its superior advantages for the United States. Even in 1856, when a civil war seemed imminent here over the slavery question, he wrote to Nassau Senior, who had expressed the hope and expectation, shared by nearly all Englishmen in those days who had a vote, that the dismemberment of the United States was imminent, inevitable, and, on the whole, desirable: "I must say that America is a puer robustus. Yet I can not desire, as many persons do, its dismemberment. Such an event would inflict a great wound on the whole human race, for it would introduce war into a great continent from which it has been ban-

ished for more than a century. The breaking up of the American Union will be a solemn moment in the history of the world. I never met an American who did not feel this, and I believe it will not be rashly or easily undertaken. There will, before actual rupture, be always a last interval in which one or both parties will draw back. Has not this occurred twice?"

Though he believed republican government better suited for the United States than any other for the time being, he seemed to share the misgivings of Macaulay as to its durability when their population approached in density that of most European states, yet on that point he was not dogmatical. He rather hesitated belief. "The defects of a democratic government," he wrote to his friend Kergolay from New York in 1831, "are obvious. There are perpetual changes of men and institutions, extreme external equality, manners without distinction, and ideas always commonplace." Had he lived to witness what has occurred both in Europe and in America since his death, he would doubtless have modified his opinions in regard to some of the weaknesses and shortcomings of democratic governments. The suppression of the Rebellion in the United States; the emancipation of four millions of its slaves; the expulsion of the Spanish dynasty from the Antilles and the Philippines; the overthrow, humiliation, and exile from France of a dynasty too despotic to tolerate him as one of its cabinet counsellors; the establishment of a republic on its ruins, the enlargement of the voting franchise in England, and the concession to all her colonies of local self-government; the establishment of parliamentary government in Germany, Austria, and Italy; the total extinction of dynastic government in South America—these are all indications of changes in the relations of the peoples of the Christian world to their respective governments which, in so keen, so thoughtful, and so conscientious an observer as De Tocqueville, could not have failed to strengthen the conviction that all political governments

are destined to become and remain the agents, instead of being masters, of the people, and that they can only exist permanently if administered for the welfare of all, and not for the welfare of a special class or dynasty.

De Tocqueville was an altogether exemplary man and a devout Catholic, though his views on ecclesiastical matters can not be said to have expanded his fame. The measure of his development in that direction may be found in the following extract from a letter to M. de Corcelle in December, 1853: "I am quite of your opinion as to the importance of the 'progressive Catholicism.' It is detestable, let alone its doctrines. A religion must be absolutely true or false. How can it make progress? It is equally true that a quart of wine is and must be a quart of wine, but you can not put a quart of wine into a pint cup, nor fill a gallon measure with a quart of wine. So the truth must be the truth, but no two persons ever did or ever will hold precisely the same amount of it."

However, those lines were written in the confidences of friendship in a private letter, and after De Tocqueville had become a confirmed valetudinarian, probably without much reflection, without a thought of their publication, and were addressed to one who was sure to sympathize with anything, however absurd, which seemed to exalt the authority of the Church. When in the United States, twenty years earlier, he wrote: "Christianity rests here on a firmer foundation than in any country in the world which I know, and I have no doubt that the religious element influences the political one. It induces morality and regularity." And yet very many of the infallible and unchangeable dogmas of his communion were shared by a comparatively small proportion of the population of the States in those days.

The genius of De Tocqueville must be measured now by his published works; and, measured by that test, he deserves to rank among the immortal few who have most contributed to enlarge the horizon of governmental sci-

ence. To use an expression of his most devoted friend, De Beaumont, we may say of those works that they are an intellectual arsenal in which the friends of freedom will long come to seek weapons; statesmen, maxims; feeble characters, energy; and all thinkers, ideas.

JOHN BIGELOW.

FAMOUS AND UNIQUE MANUSCRIPT AND BOOK ILLUSTRATIONS.

A series of fac-similes, showing the development of manuscript and book illustrating during four thousand years

PSALTER OF THE DUKE OF BERRI.

Illuminated miniature from a manuscript of the fifteenth century.

Custodi me a laqueo quē statuerunt mihi et a scandalis operantium iniquitatem.

Cadent in rete eius peccatores singuli dum ego donec transeam.

Voce mea ad dominum clamavi voce mea ad dominum deprecatus sum.

Effundo in conspectu eius orationem meam et tribulationem meam ante ipsum pronuntio.

In deficiendo ex me spiritum meum et tu cognovisti semitas meas.

In via hac qua ambulabam absconderunt superbi laqueum mihi.

Garde moy du las que ilz me establirent et des blasmes des faulsans felonie.

Les pecheurs keurent en la rasle lui tout seul de li que ie trespasse.

Ie criay a nre sire de mon vois pie a nre sire de mon vois.

Ie espandi mon oroison deuant lui et ie adnichila tribulacion deuant lui.

Ou de laillant mon esprit de moy tu cōneus mes wies.

En ceste wie ou ie aloie les orgueilleus me muchierent las.

Julius Bien & Co Lith. N.Y

THE AUTHOR'S PREFACE

AMONG the novel objects that attracted my attention during my stay in the United States, nothing struck me more forcibly than the general equality of conditions. I readily discovered the prodigious influence which this primary fact exercises on the whole course of society, by giving a certain direction to public opinion, and a certain tenor to the laws; by imparting new maxims to the governing powers, and peculiar habits to the governed. I speedily perceived that the influence of this fact extends far beyond the political character and the laws of the country, and that it has no less empire over civil society than over the Government; it creates opinions, engenders sentiments, suggests the ordinary practices of life, and modifies whatever it does not produce. The more I advanced in the study of American society, the more I perceived that the equality of conditions is the fundamental fact from which all others seem to be derived, and the central point at which all my observations constantly terminated.

I then turned my thoughts to our own hemisphere, where I imagined that I discerned something analogous to the spectacle which the New World presented to me. I observed that the equality of conditions is daily progressing toward those extreme limits which it seems to have reached in the United States, and that the democracy which governs the American communities appears to be rapidly rising into power in Europe. I hence conceived the idea of the book which is now before the reader.

It is evident to all alike that a great democratic revolution is going on among us; but there are two opinions as to its nature and consequences. To some it appears to be a novel accident, which as such may still be checked; to others it seems irresistible, because it is the most uniform, the most ancient, and the most permanent tendency which is to be found in history. Let us recollect the situation of France seven hundred years ago, when the territory was divided among a small number of families, who were the owners of the soil and the rulers of the inhabitants; the right of governing descended with the family inheritance from generation to generation; force was the only means by which man could act on man, and landed property was the sole source of power. Soon, however, the political power of the clergy was founded, and began to exert itself: the clergy opened its ranks to all classes, to the poor and the rich, the villain and the lord; equality penetrated into the Government through the Church, and the being who as a serf must have vegetated in perpetual bondage took his place as a priest in the midst of nobles, and not unfrequently above the heads of kings.

The different relations of men became more complicated and more numerous as society gradually became more stable and more civilized. Thence the want of civil laws was felt; and the order of legal functionaries soon rose from the obscurity of the tribunals and their dusty chambers, to appear at the court of the monarch, by the side of the feudal barons in their ermine and their mail. While the kings were ruining themselves by their great enterprises, and the nobles exhausting their resources by private wars, the lower orders were enriching themselves by commerce. The influence of money began to be perceptible in State affairs. The transactions of business opened a new road to power, and the financier rose to a station of political influence in which he was at once flattered and despised. Gradually the spread of mental acquirements, and the increasing taste for literature and art, opened chances of success to talent; science became a

means of government, intelligence led to social power, and the man of letters took a part in the affairs of the State. The value attached to the privileges of birth decreased in the exact proportion in which new paths were struck out to advancement. In the eleventh century nobility was beyond all price; in the thirteenth it might be purchased; it was conferred for the first time in 1270; and equality was thus introduced into the Government by the aristocracy itself.

In the course of these seven hundred years it sometimes happened that in order to resist the authority of the Crown, or to diminish the power of their rivals, the nobles granted a certain share of political rights to the people. Or, more frequently, the king permitted the lower orders to enjoy a degree of power, with the intention of repressing the aristocracy. In France the kings have always been the most active and the most constant of levellers. When they were strong and ambitious they spared no pains to raise the people to the level of the nobles; when they were temperate or weak they allowed the people to rise above themselves. Some assisted the democracy by their talents, others by their vices. Louis XI and Louis XIV reduced every rank beneath the throne to the same subjection; Louis XV descended, himself and all his Court, into the dust.

As soon as land was held on any other than a feudal tenure, and personal property began in its turn to confer influence and power, every improvement which was introduced in commerce or manufacture was a fresh element of the equality of conditions. Henceforward every new discovery, every new want which it engendered, and every new desire which craved satisfaction, was a step toward the universal level. The taste for luxury, the love of war, the sway of fashion, and the most superficial as well as the deepest passions of the human heart, co-operated to enrich the poor and to impoverish the rich.

From the time when the exercise of the intellect became the source of strength and of wealth, it is impossible

not to consider every addition to science, every fresh truth, and every new idea as a germ of power placed within the reach of the people. Poetry, eloquence, and memory, the grace of wit, the glow of imagination, the depth of thought, and all the gifts which are bestowed by Providence with an equal hand, turned to the advantage of the democracy; and even when they were in the possession of its adversaries they still served its cause by throwing into relief the natural greatness of man; its conquests spread, therefore, with those of civilization and knowledge, and literature became an arsenal where the poorest and the weakest could always find weapons to their hand.

In perusing the pages of our history, we shall scarcely meet with a single great event, in the lapse of seven hundred years, which has not turned to the advantage of equality. The Crusades and the wars of the English decimated the nobles and divided their possessions; the erection of communities introduced an element of democratic liberty into the bosom of feudal monarchy; the invention of fire-arms equalized the villain and the noble on the field of battle; printing opened the same resources to the minds of all classes; the post was organized so as to bring the same information to the door of the poor man's cottage and to the gate of the palace; and Protestantism proclaimed that all men are alike able to find the road to heaven. The discovery of America offered a thousand new paths to fortune, and placed riches and power within the reach of the adventurous and the obscure. If we examine what has happened in France at intervals of fifty years, beginning with the eleventh century, we shall invariably perceive that a twofold revolution has taken place in the state of society. The noble has gone down on the social ladder, and the roturier has gone up; the one descends as the other rises. Every half century brings them nearer to each other, and they will very shortly meet.

Nor is this phenomenon at all peculiar to France. Whithersoever we turn our eyes we shall witness the same

continual revolution throughout the whole of Christendom. The various occurrences of national existence have everywhere turned to the advantage of democracy; all men have aided it by their exertions: those who have intentionally laboured in its cause, and those who have served it unwittingly; those who have fought for it and those who have declared themselves its opponents, have all been driven along in the same track, have all laboured to one end, some ignorantly and some unwillingly; all have been blind instruments in the hands of God.

The gradual development of the equality of conditions is therefore a providential fact, and it possesses all the characteristics of a Divine decree: it is universal, it is durable, it constantly eludes all human interference, and all events as well as all men contribute to its progress. Would it, then, be wise to imagine that a social impulse which dates from so far back can be checked by the efforts of a generation? Is it credible that the democracy which has annihilated the feudal system and vanquished kings will respect the citizen and the capitalist? Will it stop now that it has grown so strong and its adversaries so weak? None can say which way we are going, for all terms of comparison are wanting: the equality of conditions is more complete in the Christian countries of the present day than it has been at any time or in any part of the world; so that the extent of what already exists prevents us from foreseeing what may be yet to come.

The whole book which is here offered to the public has been written under the impression of a kind of religious dread produced in the author's mind by the contemplation of so irresistible a revolution, which has advanced for centuries in spite of such amazing obstacles, and which is still proceeding in the midst of the ruins it has made. It is not necessary that God himself should speak in order to disclose to us the unquestionable signs of His will; we can discern them in the habitual course of nature, and in the invariable tendency of events: I know, without a special revelation, that the planets move

in the orbits traced by the Creator's finger. If the men of our time were led by attentive observation and by sincere reflection to acknowledge that the gradual and progressive development of social equality is at once the past and future of their history, this solitary truth would confer the sacred character of a Divine decree upon the change. To attempt to check democracy would be in that case to resist the will of God; and the nations would then be constrained to make the best of the social lot awarded to them by Providence.

The Christian nations of our age seem to me to present a most alarming spectacle; the impulse which is bearing them along is so strong that it can not be stopped, but it is not yet so rapid that it can not be guided: their fate is in their hands; yet a little while and it may be so no longer. The first duty which is at this time imposed upon those who direct our affairs is to educate the democracy; to warm its faith, if that be possible; to purify its morals; to direct its energies; to substitute a knowledge of business for its inexperience, and an acquaintance with its true interests for its blind propensities; to adapt its government to time and place, and to modify it in compliance with the occurrences and the actors of the age. A new science of politics is indispensable to a new world. This, however, is what we think of least; launched in the middle of a rapid stream, we obstinately fix our eyes on the ruins which may still be descried upon the shore we have left, while the current sweeps us along, and drives us backward toward the gulf.

In no country in Europe has the great social revolution which I have been describing made such rapid progress as in France; but it has always been borne on by chance. The heads of the State have never had any forethought for its exigencies, and its victories have been obtained without their consent or without their knowledge. The most powerful, the most intelligent, and the most moral classes of the nation have never attempted to connect themselves with it in order to guide it. The

people has consequently been abandoned to its wild propensities, and it has grown up like those outcasts who receive their education in the public streets, and who are unacquainted with aught but the vices and wretchedness of society. The existence of a democracy was seemingly unknown, when on a sudden it took possession of the supreme power. Everything was then submitted to its caprices; it was worshipped as the idol of strength; until, when it was enfeebled by its own excesses, the legislator conceived the rash project of annihilating its power, instead of instructing it and correcting its vices; no attempt was made to fit it to govern, but all were bent on excluding it from the government.

The consequence of this has been that the democratic revolution has been effected only in the material parts of society, without that concomitant change in laws, ideas, customs, and manners which was necessary to render such a revolution beneficial. We have obtained a democracy, but without the conditions which lessen its vices and render its natural advantages more prominent; and although we already perceive the evils it brings, we are ignorant of the benefits it may confer.

While the power of the Crown, supported by the aristocracy, peaceably governed the nations of Europe, society possessed, in the midst of its wretchedness, several different advantages which can now scarcely be appreciated or conceived. The power of a part of his subjects was an insurmountable barrier to the tyranny of the prince; and the monarch, who felt the almost divine character which he enjoyed in the eyes of the multitude, derived a motive for the just use of his power from the respect which he inspired. High as they were placed above the people, the nobles could not but take that calm and benevolent interest in its fate which the shepherd feels toward his flock; and without acknowledging the poor as their equals, they watched over the destiny of those whose welfare Providence had intrusted to their care. The people never having conceived the idea of a social condition

different from its own, and entertaining no expectation of ever ranking with its chiefs, received benefits from them without discussing their rights. It grew attached to them when they were clement and just, and it submitted without resistance or servility to their exactions, as to the inevitable visitations of the arm of God. Custom, and the manners of the time, had moreover created a species of law in the midst of violence, and established certain limits to oppression. As the noble never suspected that any one would attempt to deprive him of the privileges which he believed to be legitimate, and as the serf looked upon his own inferiority as a consequence of the immutable order of Nature, it is easy to imagine that a mutual exchange of good-will took place between two classes so differently gifted by fate. Inequality and wretchedness were then to be found in society; but the souls of neither rank of men were degraded. Men are not corrupted by the exercise of power or debased by the habits of obedience, but by the exercise of a power which they believe to be illegal and by obedience to a rule which they consider to be usurped and oppressive. On one side was wealth, strength, and leisure, accompanied by the refinements of luxury, the elegance of taste, the pleasures of wit, and the religion of art. On the other was labour and a rude ignorance; but in the midst of this coarse and ignorant multitude it was not uncommon to meet with energetic passions, generous sentiments, profound religious convictions, and independent virtues. The body of a State thus organized might boast of its stability, its power, and, above all, of its glory.

But the scene is now changed, and gradually the two ranks mingle; the divisions which once severed mankind are lowered; property is divided, power is held in common, the light of intelligence spreads, and the capacities of all classes are equally cultivated; the State becomes democratic, and the empire of democracy is slowly and peaceably introduced into the institutions and the manners of the nation. I can conceive a society in which all

men would profess an equal attachment and respect for the laws of which they are the common authors; in which the authority of the State would be respected as necessary, though not as divine; and the loyalty of the subject to the chief magistrate would not be a passion, but a quiet and rational persuasion. Every individual being in the possession of rights which he is sure to retain, a kind of manly reliance and reciprocal courtesy would arise between all classes, alike removed from pride and meanness. The people, well acquainted with its true interests, would allow that in order to profit by the advantages of society it is necessary to satisfy its demands. In this state of things the voluntary association of the citizens might supply the individual exertions of the nobles, and the community would be alike protected from anarchy and from oppression.

I admit that, in a democratic State thus constituted, society will not be stationary; but the impulses of the social body may be regulated and directed forward; if there be less splendour than in the halls of an aristocracy, the contrast of misery will be less frequent also; the pleasures of enjoyment may be less excessive, but those of comfort will be more general; the sciences may be less perfectly cultivated, but ignorance will be less common; the impetuosity of the feelings will be repressed, and the habits of the nation softened; there will be more vices and fewer crimes. In the absence of enthusiasm and of an ardent faith, great sacrifices may be obtained from the members of a commonwealth by an appeal to their understandings and their experience; each individual will feel the same necessity for uniting with his fellow-citizens to protect his own weakness; and as he knows that if they are to assist he must co-operate, he will readily perceive that his personal interest is identified with the interest of the community. The nation, taken as a whole, will be less brilliant, less glorious, and perhaps less strong; but the majority of the citizens will enjoy a greater degree of prosperity, and the people will remain quiet, not because it

despairs of amelioration, but because it is conscious of the advantages of its condition. If all the consequences of this state of things were not good or useful, society would at least have appropriated all such as were useful and good; and having once and forever renounced the social advantages of aristocracy, mankind would enter into possession of all the benefits which democracy can afford.

But here it may be asked what we have adopted in the place of those institutions, those ideas, and those customs of our forefathers which we have abandoned. The spell of royalty is broken, but it has not been succeeded by the majesty of the laws; the people has learned to despise all authority, but fear now extorts a larger tribute of obedience than that which was formerly paid by reverence and by love.

I perceive that we have destroyed those independent beings which were able to cope with tyranny single-handed; but it is the Government that has inherited the privileges of which families, corporations, and individuals have been deprived; the weakness of the whole community has therefore succeeded that influence of a small body of citizens, which, if it was sometimes oppressive, was often conservative. The division of property has lessened the distance which separated the rich from the poor; but it would seem that the nearer they draw to each other, the greater is their mutual hatred, and the more vehement the envy and the dread with which they resist each other's claims to power; the notion of right is alike insensible to both classes, and force affords to both the only argument for the present, and the only guarantee for the future. The poor man retains the prejudices of his forefathers without their faith, and their ignorance without their virtues; he has adopted the doctrine of self-interest as the rule of his actions, without understanding the science which controls it, and his egotism is no less blind than his devotedness was formerly. If society is tranquil, it is not because it relies upon its strength and its well-being, but

because it knows its weakness and its infirmities; a single effort may cost it its life; everybody feels the evil, but no one has courage or energy enough to seek the cure; the desires, the regrets, the sorrows, and the joys of the time produce nothing that is visible or permanent, like the passions of old men which terminate in impotence.

We have, then, abandoned whatever advantages the old state of things afforded, without receiving any compensation from our present condition; we have destroyed an aristocracy, and we seem inclined to survey its ruins with complacency, and to fix our abode in the midst of them.

The phenomena which the intellectual world presents are not less deplorable. The democracy of France, checked in its course or abandoned to its lawless passions, has overthrown whatever crossed its path, and has shaken all that it has not destroyed. Its empire on society has not been gradually introduced or peaceably established, but it has constantly advanced in the midst of disorder and the agitation of a conflict. In the heat of the struggle each partisan is hurried beyond the limits of his opinions by the opinions and the excesses of his opponents, until he loses sight of the end of his exertions, and holds a language which disguises his real sentiments or secret instincts. Hence arises the strange confusion which we are witnessing. I can not recall to my mind a passage in history more worthy of sorrow and of pity than the scenes which are happening under our eyes; it is as if the natural bond which unites the opinions of man to his tastes and his actions to his principles was now broken; the sympathy which has always been acknowledged between the feelings and the ideas of mankind appears to be dissolved, and all the laws of moral analogy to be abolished.

Zealous Christians may be found among us whose minds are nurtured in the love and knowledge of a future life, and who readily espouse the cause of human liberty as the source of all moral greatness. Christianity, which has declared that all men are equal in the sight of God,

will not refuse to acknowledge that all citizens are equal in the eye of the law. But, by a singular concourse of events, religion is entangled in those institutions which democracy assails, and it is not unfrequently brought to reject the equality it loves, and to curse that cause of liberty as a foe which it might hallow by its alliance.

By the side of these religious men I discern others whose looks are turned to the earth more than to Heaven; they are the partisans of liberty, not only as the source of the noblest virtues, but more especially as the root of all solid advantages; and they sincerely desire to extend its sway, and to impart its blessings to mankind. It is natural that they should hasten to invoke the assistance of religion, for they must know that liberty can not be established without morality, nor morality without faith; but they have seen religion in the ranks of their adversaries, and they inquire no further; some of them attack it openly, and the remainder are afraid to defend it.

In former ages slavery has been advocated by the venal and slavish-minded, while the independent and the warm-hearted were struggling without hope to save the liberties of mankind. But men of high and generous characters are now to be met with, whose opinions are at variance with their inclinations, and who praise that servility which they have themselves never known. Others, on the contrary, speak in the name of liberty, as if they were able to feel its sanctity and its majesty, and loudly claim for humanity those rights which they have always disowned. There are virtuous and peaceful individuals whose pure morality, quiet habits, affluence, and talents fit them to be the leaders of the surrounding population; their love of their country is sincere, and they are prepared to make the greatest sacrifices to its welfare, but they confound the abuses of civilization with its benefits, and the idea of evil is inseparable in their minds from that of novelty.

Not far from this class is another party, whose object is to materialize mankind, to hit upon what is expedient without heeding what is just, to acquire knowledge with-

out faith, and prosperity apart from virtue; assuming the title of the champions of modern civilization, and placing themselves in a station which they usurp with insolence, and from which they are driven by their own unworthiness. Where are we then? The religionists are the enemies of liberty, and the friends of liberty attack religion; the high-minded and the noble advocate subjection, and the meanest and most servile minds preach independence; honest and enlightened citizens are opposed to all progress, while men without patriotism and without principles are the apostles of civilization and of intelligence. Has such been the fate of the centuries which have preceded our own? and has man always inhabited a world like the present, where nothing is linked together, where virtue is without genius, and genius without honour; where the love of order is confounded with a taste for oppression, and the holy rites of freedom with a contempt of law; where the light thrown by conscience on human actions is dim, and where nothing seems to be any longer forbidden or allowed, honourable or shameful, false or true? I can not, however, believe that the Creator made man to leave him in an endless struggle with the intellectual miseries which surround us: God destines a calmer and a more certain future to the communities of Europe; I am unacquainted with His designs, but I shall not cease to believe in them because I can not fathom them, and I had rather mistrust my own capacity than His justice.

There is a country in the world where the great revolution which I am speaking of seems nearly to have reached its natural limits; it has been effected with ease and simplicity, say rather that this country has attained the consequences of the democratic revolution which we are undergoing without having experienced the revolution itself. The emigrants who fixed themselves on the shores of America in the beginning of the seventeenth century severed the democratic principle from all the principles which repressed it in the old communities of Europe, and transplanted it unalloyed to the New World. It has there been

allowed to spread in perfect freedom, and to put forth its consequences in the laws by influencing the manners of the country.

It appears to me beyond a doubt that sooner or later we shall arrive, like the Americans, at an almost complete equality of conditions. But I do not conclude from this that we shall ever be necessarily led to draw the same political consequences which the Americans have derived from a similar social organization. I am far from supposing that they have chosen the only form of government which a democracy may adopt; but the identity of the efficient cause of laws and manners in the two countries is sufficient to account for the immense interest we have in becoming acquainted with its effects in each of them.

It is not, then, merely to satisfy a legitimate curiosity that I have examined America; my wish has been to find instruction by which we may ourselves profit. Whoever should imagine that I have intended to write a panegyric will perceive that such was not my design; nor has it been my object to advocate any form of government in particular, for I am of opinion that absolute excellence is rarely to be found in any legislation; I have not even affected to discuss whether the social revolution, which I believe to be irresistible, is advantageous or prejudicial to mankind; I have acknowledged this revolution as a fact already accomplished or on the eve of its accomplishment; and I have selected the nation, from among those which have undergone it, in which its development has been the most peaceful and the most complete, in order to discern its natural consequences, and, if it be possible, to distinguish the means by which it may be rendered profitable. I confess that in America I saw more than America; I sought the image of democracy itself, with its inclinations, its character, its prejudices, and its passions, in order to learn what we have to fear or to hope from its progress.

In the first part of this work I have attempted to show the tendency given to the laws by the democracy of

America, which is abandoned almost without restraint to its instinctive propensities, and to exhibit the course it prescribes to the Government and the influence it exercises on affairs. I have sought to discover the evils and the advantages which it produces. I have examined the precautions used by the Americans to direct it, as well as those which they have not adopted, and I have undertaken to point out the causes which enable it to govern society. I do not know whether I have succeeded in making known what I saw in America, but I am certain that such has been my sincere desire, and that I have never, knowingly, moulded facts to ideas, instead of ideas to facts.

Whenever a point could be established by the aid of written documents, I have had recourse to the original text, and to the most authentic and approved works. I have cited my authorities in the notes, and any one may refer to them. Whenever an opinion, a political custom, or a remark on the manners of the country was concerned, I endeavoured to consult the most enlightened men I met with. If the point in question was important or doubtful, I was not satisfied with one testimony, but I formed my opinion on the evidence of several witnesses. Here the reader must necessarily believe me upon my word. I could frequently have quoted names which are either known to him, or which deserve to be so, in proof of what I advance; but I have carefully abstained from this practice. A stranger frequently hears important truths at the fireside of his host, which the latter would perhaps conceal from the ear of friendship; he consoles himself with his guest for the silence to which he is restricted, and the shortness of the traveller's stay takes away all fear of his indiscretion. I carefully noted every conversation of this nature as soon as it occurred, but these notes will never leave my writing-case; I had rather injure the success of my statements than add my name to the list of those strangers who repay the generous hospitality they have received by subsequent chagrin and annoyance.

I am aware that, notwithstanding my care, nothing will be easier than to criticise this book, if any one ever chooses to criticise it. Those readers who may examine it closely will discover the fundamental idea which connects the several parts together. But the diversity of the subjects I have had to treat is exceedingly great, and it will not be difficult to oppose an isolated fact to the body of facts which I quote, or an isolated idea to the body of ideas I put forth. I hope to be read in the spirit which has guided my labours, and that my book may be judged by the general impression it leaves, as I have formed my own judgment not on any single reason, but upon the mass of evidence. It must not be forgotten that the author who wishes to be understood is obliged to push all his ideas to their utmost theoretical consequences, and often to the verge of what is false or impracticable; for if it be necessary sometimes to quit the rules of logic in active life, such is not the case in discourse, and a man finds that almost as many difficulties spring from inconsistency of language as usually arise from inconsistency of conduct.

I conclude by pointing out myself what many readers will consider the principal defect of the work. This book is written to favour no particular views, and in composing it I have entertained no designs of serving or attacking any party; I have undertaken not to see differently, but to look further than parties, and while they are busied for the morrow I have turned my thoughts to the Future.

[Note.—This book was published originally in two parts, the second part beginning with the chapter numbered XXII in this edition. The following is De Tocqueville's Preface to the second part.]

The Americans live in a democratic state of society, which has suggested naturally to them certain laws and a certain political character. This same state of society has, moreover, engendered among them a multitude of feelings and opinions which were unknown among the elder aristocratic communities of Europe: it has destroyed or modi-

fied all the relations which before existed, and established others of a novel kind. The aspect of civil society has been no less affected by these changes than that of the political world. The former subject has been treated of in the work on the Democracy of America, which I published five years ago; to examine the latter is the object of the present book; but these two parts complete each other, and form one and the same work.

I must at once warn the reader against an error which would be extremely prejudicial to me. When he finds that I attribute so many different consequences to the principle of equality, he may thence infer that I consider that principle to be the sole cause of all that takes place in the present age: but this would be to impute to me a very narrow view. A multitude of opinions, feelings, and propensities are now in existence, which owe their origin to circumstances unconnected with or even contrary to the principle of equality. Thus if I were to select the United States as an example, I could easily prove that the nature of the country, the origin of its inhabitants, the religion of its founders, their acquired knowledge, and their former habits, have exercised, and still exercise, independently of Democracy, a vast influence upon the thoughts and feelings of that people. Different causes, but no less distinct from the circumstance of the equality of conditions, might be traced in Europe, and would explain a great portion of the occurrences taking place among us.

I acknowledge the existence of all these different causes, and their power, but my subject does not lead me to treat of them. I have not undertaken to unfold the reason of all our inclinations and all our notions: my only object is to show in what respects the principle of equality has modified both the former and the latter.

Some readers may perhaps be astonished that, firmly persuaded as I am that the democratic revolution which we are witnessing is an irresistible fact against which it would be neither desirable nor wise to struggle, I should

often have had occasion in this book to address language of such severity to those democratic communities which this revolution has brought into being. My answer is simply, that it is because I am not an adversary of Democracy, that I have sought to speak of Democracy in all sincerity.

Men will not accept truth at the hands of their enemies, and truth is seldom offered to them by their friends: for this reason I have spoken it. I was persuaded that many would take upon themselves to announce the new blessings which the principle of equality promises to mankind, but that few would dare to point out from afar the dangers with which it threatens them. To those perils, therefore, I have turned my chief attention, and believing that I had discovered them clearly, I have not had the cowardice to leave them untold.

I trust that my readers will find in this Second Part that impartiality which seems to have been remarked in the former work. Placed as I am in the midst of the conflicting opinions between which we are divided, I have endeavoured to suppress within me for a time the favourable sympathies or the adverse emotions with which each of them inspires me. If those who read this book can find a single sentence intended to flatter any of the great parties which have agitated my country, or any of those petty factions which now harass and weaken it, let such readers raise their voices to accuse me.

The subject I have sought to embrace is immense, for it includes the greater part of the feelings and opinions to which the new state of society has given birth. Such a subject is doubtless above my strength, and in treating it I have not succeeded in satisfying myself. But, if I have not been able to reach the goal which I had in view, my readers will at least do me the justice to acknowledge that I have conceived and followed up my undertaking in a spirit not unworthy of success.

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DEMOCRACY IN AMERICA

CHAPTER I

EXTERIOR FORM OF NORTH AMERICA

North America divided into two vast regions, one inclining toward the Pole the other toward the Equator—Valley of the Mississippi—Traces of the revolutions of the globe—Shore of the Atlantic Ocean where the English Colonies were founded—Difference in the appearance of North and of South America at the time of their discovery—Forests of North America—Prairies—Wandering tribes of natives—Their outward appearance, manners, and language—Traces of an unknown people.

NORTH AMERICA presents in its external form certain general features which it is easy to discriminate at the first glance. A sort of methodical order seems to have regulated the separation of land and water, mountains and valleys. A simple but grand arrangement is discoverable amid the confusion of objects and the prodigious variety of scenes. This continent is divided, almost equally, into two vast regions, one of which is bounded on the north by the Arctic Pole, and by the two great oceans on the east and west. It stretches toward the south, forming a triangle, whose irregular sides meet at length below the great lakes of Canada. The second region begins where the other terminates, and includes all the remainder of the continent. The one slopes gently toward the Pole, the other toward the Equator.

The territory comprehended in the first region descends toward the north with so imperceptible a slope that it may almost be said to form a level plain. Within the bounds of this immense tract of country there are neither high mountains nor deep valleys. Streams meander through it irregularly: great rivers mix their currents, separate and meet again, disperse and form vast marshes, losing all trace of their channels in the labyrinth of waters they have themselves created; and thus at length, after innumerable windings, fall into the Polar Seas. The great lakes which bound this first region are not walled in, like most of those in the Old World, between hills and rocks. Their banks are flat, and rise but a few feet above the level of their waters; each of them thus forming a vast bowl filled to the brim. The slightest change in the structure of the globe would cause their waters to rush either toward the Pole or to the Tropical Sea.

The second region is more varied on its surface, and better suited for the habitation of man. Two long chains of mountains divide it from one extreme to the other: the Alleghany ridge takes the form of the shores of the Atlantic Ocean; the other is parallel with the Pacific. The space which lies between these two chains of mountains contains 1,341,649 square miles. Its surface is therefore about six times as great as that of France. This vast territory, however, forms a single valley, one side of which descends gradually from the rounded summits of the Alleghanies, while the other rises in an uninterrupted course toward the tops of the Rocky Mountains. At the bottom of the valley flows an immense river, into which the various streams issuing from the mountains fall from all parts. In memory of their native land, the French formerly called this river the St. Louis. The Indians, in their pompous language, have named it the Father of Waters, or the Mississippi.

The Mississippi takes its source above the limit of the two great regions of which I have spoken, not far from the highest point of the table-land where they unite.

Near the same spot rises another river,[1] which empties itself into the Polar Seas. The course of the Mississippi is at first dubious: it winds several times toward the north, from whence it rose; and at length, after having been delayed in lakes and marshes, it flows slowly onward to the south. Sometimes quietly gliding along the argillaceous bed which Nature has assigned to it, sometimes swollen by storms, the Mississippi waters 2,500 miles in its course. At the distance of 1,364 miles from its mouth this river attains an average depth of fifteen feet; and it is navigated by vessels of 300 tons burden for a course of nearly 500 miles. Fifty-seven large navigable rivers contribute to swell the waters of the Mississippi; among others, the Missouri, which traverses a space of 2,500 miles, the Arkansas of 1,300 miles, the Red River 1,000 miles, four whose course is from 800 to 1,000 miles in length—viz., the Illinois, the St. Peter's, the St. Francis, and the Moingona—besides a countless multitude of rivulets which unite from all parts their tributary streams.

The valley which is watered by the Mississippi seems formed to be the bed of this mighty river, which, like a god of antiquity, dispenses both good and evil in its course. On the shores of the stream Nature displays an inexhaustible fertility; in proportion as you recede from its banks, the powers of vegetation languish, the soil becomes poor, and the plants that survive have a sickly growth. Nowhere have the great convulsions of the globe left more evident traces than in the valley of the Mississippi; the whole aspect of the country shows the powerful effects of water, both by its fertility and by its barrenness. The waters of the primeval ocean accumulated enormous beds of vegetable mould in the valley, which they levelled as they retired. Upon the right shore of the river are seen immense plains, as smooth as if the husbandman had passed over them with his roller. As you approach the mountains the soil becomes more and more unequal and sterile; the ground is, as it were, pierced in a thousand places by primitive rocks, which appear like the bones of

a skeleton whose flesh is partly consumed. The surface of the earth is covered with a granitic sand and huge irregular masses of stone, among which a few plants force their growth, and give the appearance of a green field covered with the ruins of a vast edifice. These stones and this sand discover, on examination, a perfect analogy with those which compose the arid and broken summits of the Rocky Mountains. The flood of waters which washed the soil to the bottom of the valley afterward carried away portions of the rocks themselves; and these, dashed and bruised against the neighbouring cliffs, were left scattered like wrecks at their feet.[2] The valley of the Mississippi is, upon the whole, the most magnificent dwelling-place prepared by God for man's abode; and yet it may be said that at present it is but a mighty desert.

On the eastern side of the Alleghanies, between the base of these mountains and the Atlantic Ocean, there lies a long ridge of rocks and sand, which the sea appears to have left behind as it retired. The mean breadth of this territory does not exceed one hundred miles; but it is about nine hundred miles in length. This part of the American continent has a soil which offers every obstacle to the husbandman, and its vegetation is scanty and unvaried.

Upon this inhospitable coast the first united efforts of human industry were made. The tongue of arid land was the cradle of those English colonies which were destined one day to become the United States of America. The centre of power still remains here; while in the backwoods the true elements of the great people to whom the future control of the continent belongs are gathering almost in secrecy together.

When the Europeans first landed on the shores of the West Indies, and afterward on the coast of South America, they thought themselves transported into those fabulous regions of which poets had sung. The sea sparkled with phosphoric light, and the extraordinary transparency of its waters discovered to the view of the navigator all that

had hitherto been hidden in the deep abyss.[3] Here and there appeared little islands perfumed with odoriferous plants, and resembling baskets of flowers floating on the tranquil surface of the ocean. Every object which met the sight, in this enchanting region, seemed prepared to satisfy the wants or contribute to the pleasures of man. Almost all the trees were loaded with nourishing fruits, and those which were useless as food delighted the eye by the brilliancy and variety of their colours. In groves of fragrant lemon-trees, wild figs, flowering myrtles, acacias, and oleanders, which were hung with festoons of various climbing plants, covered with flowers, a multitude of birds unknown in Europe displayed their bright plumage, glittering with purple and azure, and mingled their warbling with the harmony of a world teeming with life and motion.[4] Underneath this brilliant exterior death was concealed. But the air of these climates had so enervating an influence that man, absorbed by present enjoyment, was rendered regardless of the future.

North America appeared under a very different aspect; there everything was grave, serious, and solemn: it seemed created to be the domain of intelligence, as the South was that of sensual delight. A turbulent and foggy ocean washed its shores. It was girt round by a belt of granite rocks, or by wide tracts of sand. The foliage of its woods was dark and gloomy, for they were composed of firs, larches, evergreen oaks, wild olive-trees, and laurels. Beyond this outer belt lay the thick shades of the central forest, where the largest trees which are produced in the two hemispheres grow side by side. The plane, the catalpa, the sugar-maple, and the Virginian poplar mingled their branches with those of the oak, the beech, and the lime. In these, as in the forests of the Old World, destruction was perpetually going on. The ruins of vegetation were heaped upon each other; but there was no labouring hand to remove them, and their decay was not rapid enough to make room for the continual work of reproduction. Climbing-plants, grasses, and other herbs

forced their way through the mass of dying trees; they crept along their bending trunks, found nourishment in their dusty cavities, and a passage beneath the lifeless bark. Thus decay gave its assistance to life, and their respective productions were mingled together. The depths of these forests were gloomy and obscure, and a thousand rivulets, undirected in their course by human industry, preserved in them a constant moisture. It was rare to meet with flowers, wild fruits, or birds beneath their shades. The fall of a tree overthrown by age, the rushing torrent of a cataract, the lowing of the buffalo, and the howling of the wind were the only sounds which broke the silence of Nature.

To the east of the great river, the woods almost disappeared; in their stead were seen prairies of immense extent. Whether Nature in her infinite variety had denied the germs of trees to these fertile plains, or whether they once had been covered with forests, subsequently destroyed by the hand of man, is a question which neither tradition nor scientific research has been able to resolve.

These immense deserts were not, however, devoid of human inhabitants. Some wandering tribes had been for ages scattered among the forest shades or the green pastures of the prairie. From the mouth of the St. Lawrence to the Delta of the Mississippi, and from the Atlantic to the Pacific Ocean, these savages possessed certain points of resemblance which bore witness of their common origin; but at the same time they differed from all other known races of men:[5] they were neither white like the Europeans, nor yellow like most of the Asiatics, nor black like the negroes. Their skin was reddish brown, their hair long and shining, their lips thin, and their cheekbones very prominent. The languages spoken by the North American tribes were various as far as regarded their words, but they were subject to the same grammatical rules. These rules differed in several points from such as had been observed to govern the origin of language. The idiom of the Americans seemed to be the product of new com-

binations, and bespoke an effort of the understanding of which the Indians of our days would be incapable.[6]

The social state of these tribes differed also in many respects from all that was seen in the Old World. They seemed to have multiplied freely in the midst of their deserts without coming in contact with other races more civilized than their own. Accordingly, they exhibited none of those indistinct, incoherent notions of right and wrong, none of that deep corruption of manners, which is usually joined with ignorance and rudeness among nations which, after advancing to civilization, have relapsed into a state of barbarism. The Indian was indebted to no one but himself; his virtues, his vices, and his prejudices were his own work; he had grown up in the wild independence of his nature.

If, in polished countries, the lowest of the people are rude and uncivil, it is not merely because they are poor and ignorant, but that, being so, they are in daily contact with rich and enlightened men. The sight of their own hard lot and of their weakness, which is daily contrasted with the happiness and power of some of their fellow-creatures, excites in their hearts at the same time the sentiments of anger and of fear: the consciousness of their inferiority and of their dependence irritates while it humiliates them. This state of mind displays itself in their manners and language; they are at once insolent and servile. The truth of this is easily proved by observation; the people are more rude in aristocratic countries than elsewhere, in opulent cities than in rural districts. In those places where the rich and powerful are assembled together the weak and the indigent feel themselves oppressed by their inferior condition. Unable to perceive a single chance of regaining their equality, they give up to despair, and allow themselves to fall below the dignity of human nature.

This unfortunate effect of the disparity of conditions is not observable in savage life: the Indians, although they are ignorant and poor, are equal and free. At the period

when Europeans first came among them the natives of North America were ignorant of the value of riches, and indifferent to the enjoyments which civilized man procures to himself by their means. Nevertheless there was nothing coarse in their demeanour; they practised an habitual reserve and a kind of aristocratic politeness. Mild and hospitable when at peace, though merciless in war beyond any known degree of human ferocity, the Indian would expose himself to die of hunger in order to succour the stranger who asked admittance by night at the door of his hut; yet he could tear in pieces with his hands the still quivering limbs of his prisoner. The famous republics of antiquity never gave examples of more unshaken courage, more haughty spirits, or more intractable love of independence than were hidden in former times among the wild forests of the New World.[7] The Europeans produced no great impressions when they landed upon the shores of North America; their presence engendered neither envy nor fear. What influence could they possess over such men as we have described? The Indian could live without wants, suffer without complaint, and pour out his death-song at the stake. Like all the other members of the great human family, these savages believed in the existence of a better world, and adored, under different names, God, the creator of the universe. Their notions on the great intellectual truths were in general simple and philosophical.[8]

Although we have here traced the character of a primitive people, yet it can not be doubted that another people, more civilized and more advanced in all respects, had preceded it in the same regions.

An obscure tradition which prevailed among the Indians to the north of the Atlantic informs us that these very tribes formerly dwelt on the west side of the Mississippi. Along the banks of the Ohio, and thoughout the central valley, there are frequently found, at this day, tumuli raised by the hands of men. On exploring these heaps of earth to their centre, it is usual to meet with

human bones, strange instruments, arms and utensils of all kinds, made of metal, or destined for purposes unknown to the present race. The Indians of our time are unable to give any information relative to the history of this unknown people. Neither did those who lived three hundred years ago, when America was first discovered, leave any accounts from which even an hypothesis could be formed. Tradition—that perishable yet ever renewed monument of the pristine world—throws no light upon the subject. It is an undoubted fact, however, that in this part of the globe thousands of our fellow-beings had lived. When they came hither, what was their origin, their destiny, their history, and how they perished, no one can tell. How strange does it appear that nations have existed, and afterward so completely disappeared from the earth that the remembrance of their very names is effaced; their languages are lost; their glory is vanished like a sound without an echo; though perhaps there is not one which has not left behind it some tomb in memory of its passage! The most durable monument of human labour is that which recalls the wretchedness and nothingness of man.

Although the vast country which we have been describing was inhabited by many indigenous tribes, it may justly be said at the time of its discovery by Europeans to have formed one great desert. The Indians occupied it without possessing it. It is by agricultural labour that man appropriates the soil, and the early inhabitants of North America lived by the produce of the chase. Their implacable prejudices, their uncontrolled passions, their vices, and still more perhaps their savage virtues, consigned them to inevitable destruction. The ruin of these nations began from the day when Europeans landed on their shores; it has proceeded ever since, and we are now witnessing the completion of it. They seem to have been placed by Providence amid the riches of the New World to enjoy them for a season, and then surrender them. Those coasts, so admirably adapted for commerce and industry; those wide and deep rivers; that inexhaustible

valley of the Mississippi; the whole continent, in short, seemed prepared to be the abode of a great nation, yet unborn.

In that land the great experiment was to be made, by civilized man, of the attempt to construct society upon a new basis; and it was there, for the first time, that theories hitherto unknown, or deemed impracticable, were to exhibit a spectacle for which the world had not been prepared by the history of the past.

[1] The Red River of the North.

[2] See Appendix, A.

[3] Malte Brun tells us that the water of the Caribbean Sea is so transparent that corals and fish are discernible at a depth of sixty fathoms. The ship seems to float in the air, the navigator becomes giddy as his eye penetrates through the crystal flood, and beholds submarine gardens, or beds of shells, or gilded fishes gliding among tufts and thickets of seaweed.

[4] See Appendix, B.

[5] With the progress of discovery some resemblance has been found to exist between the physical conformation, the language, and the habits of the Indians of North America, and those of the Tongous, Mantchous, Mongols, Tartars, and other wandering tribes of Asia. The land occupied by these tribes is not very distant from Behring's Strait, which allows of the supposition that at a remote period they gave inhabitants to the desert continent of America.

[6] See Appendix, C.

[7] We learn from President Jefferson's "Notes upon Virginia" that among the Iroquois, when attacked by a superior force, aged men refused to fly or to survive the destruction of their country; and they braved death like the ancient Romans when their capital was sacked by the Gauls. Further on he tells us that there is no example of an Indian who, having fallen into the hands of his enemies, begged for his life; on the contrary, the captive sought to obtain death at the hands of his conquerors by the use of insult and provocation. What is said by Jefferson is of especial weight, on account of the personal merit of the writer, of his peculiar position, and of the matter-of-fact age in which he lived.

[8] See Appendix, D.

CHAPTER II

ORIGIN OF THE ANGLO-AMERICANS, AND ITS IMPORTANCE IN RELATION TO THEIR FUTURE CONDITION

Utility of knowing the origin of nations in order to understand their social condition and their laws—America the only country in which the starting-point of a great people has been clearly observable—In what respects all who emigrated to British America were similar—Remark applicable to all the Europeans who established themselves on the shores of the New World—Colonization of Virginia—Colonization of New England—Original character of the first inhabitants of New England—Their arrival—Their first laws—Their social contract—Penal code borrowed from the Hebrew legislation—Religious fervour—Republican spirit—Intimate union of the spirit of religion with the spirit of liberty—Reasons of certain anomalies which the laws and customs of the Anglo-Americans present.

AFTER the birth of a human being his early years are obscurely spent in the toils or pleasures of childhood. As he grows up the world receives him, when his manhood begins, and he enters into contact with his fellows. He is then studied for the first time, and it is imagined that the germ of the vices and the virtues of his maturer years is then formed. This, if I am not mistaken, is a great error. We must begin higher up; we must watch the infant in its mother's arms; we must see the first images which the external world casts upon the dark mirror of his mind; the first occurrences which he witnesses; we must hear the first words which awaken the sleeping powers of thought, and stand by his earliest efforts, if we would understand the prejudices, the habits, and the passions which will rule his life. The entire man is, so to speak, to be seen in the cradle of the child.

The growth of nations presents something analogous

to this: they all bear some marks of their origin; and the circumstances which accompanied their birth and contributed to their rise affect the whole term of their being. If we were able to go back to the elements of states, and to examine the oldest monuments of their history, I doubt not that we should discover the primal cause of the prejudices, the habits, the ruling passions, and, in short, of all that constitutes what is called the national character: we should then find the explanation of certain customs which now seem at variance with the prevailing manners; of such laws as conflict with established principles; and of such incoherent opinions as are here and there to be met with in society, like those fragments of broken chains which we sometimes see hanging from the vault of an edifice, and supporting nothing. This might explain the destinies of certain nations which seem borne on by an unknown force to ends of which they themselves are ignorant. But hitherto facts have been wanting to researches of this kind: the spirit of inquiry has only come upon communities in their latter days; and when they at length contemplated their origin, time had already obscured it, or ignorance and pride adorned it with truth-concealing fables.

America is the only country in which it has been possible to witness the natural and tranquil growth of society, and where the influence exercised on the future condition of states by their origin is clearly distinguishable. At the period when the peoples of Europe landed in the New World their national characteristics were already completely formed; each of them had a physiognomy of its own; and as they had already attained that stage of civilization at which men are led to study themselves, they have transmitted to us a faithful picture of their opinions, their manners, and their laws. The men of the sixteenth century are almost as well known to us as our contemporaries. America, consequently, exhibits in the broad light of day the phenomena which the ignorance or rudeness of earlier ages conceals from our researches. Near enough to the time when the states of America were

founded, to be accurately acquainted with their elements, and sufficiently removed from that period to judge of some of their results, the men of our own day seem destined to see further than their predecessors into the series of human events. Providence has given us a torch which our forefathers did not possess, and has allowed us to discern fundamental causes in the history of the world which the obscurity of the past concealed from them. If we carefully examine the social and political state of America, after having studied its history, we shall remain perfectly convinced that not an opinion, not a custom, not a law, I may even say not an event, is upon record which the origin of that people will not explain. The readers of this book will find the germ of all that is to follow in the present chapter, and the key to almost the whole work.

The emigrants who came, at different periods, to occupy the territory now covered by the American Union differed from each other in many respects; their aim was not the same, and they governed themselves on different principles. These men had, however, certain features in common, and they were all placed in an analogous situation. The tie of language is perhaps the strongest and the most durable that can unite mankind. All the emigrants spoke the same tongue; they were all offsets from the same people. Born in a country which had been agitated for centuries by the struggles of faction, and in which all parties had been obliged in their turn to place themselves under the protection of the laws, their political education had been perfected in this rude school, and they were more conversant with the notions of right and the principles of true freedom than the greater part of their European contemporaries. At the period of their first emigrations the parish system, that fruitful germ of free institutions, was deeply rooted in the habits of the English; and with it the doctrine of the sovereignty of the people had been introduced into the bosom of the monarchy of the House of Tudor.

The religious quarrels which have agitated the Chris-

tian world were then rife. England had plunged into the new order of things with headlong vehemence. The character of its inhabitants, which had always been sedate and reflective, became argumentative and austere. General information had been increased by intellectual debate, and the mind had received a deeper cultivation. While religion was the topic of discussion, the morals of the people were reformed. All these national features are more or less discoverable in the physiognomy of those adventurers who came to seek a new home on the opposite shores of the Atlantic.

Another remark, to which we shall hereafter have occasion to recur, is applicable not only to the English, but to the French, the Spaniards, and all the Europeans who successively established themselves in the New World. All these European colonies contained the elements, if not the development, of a complete democracy. Two causes led to this result. It may safely be advanced, that on leaving the mother-country the emigrants had in general no notion of superiority over one another. The happy and the powerful do not go into exile, and there are no surer guarantees of equality among men than poverty and misfortune. It happened, however, on several occasions, that persons of rank were driven to America by political and religious quarrels. Laws were made to establish a gradation of ranks; but it was soon found that the soil of America was opposed to a territorial aristocracy. To bring that refractory land into cultivation, the constant and interested exertions of the owner himself were necessary; and when the ground was prepared, its produce was found to be insufficient to enrich a master and a farmer at the same time. The land was then naturally broken up into small portions, which the proprietor cultivated for himself. Land is the basis of an aristocracy, which clings to the soil that supports it; for it is not by privileges alone, nor by birth, but by landed property handed down from generation to generation, that an aristocracy is constituted. A nation may present immense fortunes and extreme wretchedness,

but unless those fortunes are territorial there is no aristocracy, but simply the class of the rich and that of the poor.

All the British colonies had then a great degree of similarity at the epoch of their settlement. All of them, from their first beginning, seemed destined to witness the growth, not of the aristocratic liberty of their mother-country, but of that freedom of the middle and lower orders of which the history of the world had as yet furnished no complete example.

In this general uniformity several striking differences were however discernible, which it is necessary to point out. Two branches may be distinguished in the Anglo-American family which have hitherto grown up without entirely commingling; the one in the South, the other in the North.

Virginia received the first English colony; the emigrants took possession of it in 1607. The idea that mines of gold and silver are the sources of national wealth was at that time singularly prevalent in Europe; a fatal delusion, which has done more to impoverish the nations which adopted it, and has cost more lives in America, than the united influence of war and bad laws. The men sent to Virginia [1] were seekers of gold, adventurers without resources and without character, whose turbulent and restless spirit endangered the infant colony,[2] and rendered its progress uncertain. The artisans and agriculturists arrived afterward; and, although they were a more moral and orderly race of men, they were in nowise above the level of the inferior classes in England.[3] No lofty conceptions, no intellectual system, directed the foundation of these new settlements. The colony was scarcely established when slavery was introduced,[4] and this was the main circumstance which has exercised so prodigious an influence on the character, the laws, and all the future prospects of the South. Slavery, as we shall afterward show, dishonours labour; it introduces idleness into society, and with idleness, ignorance and pride, luxury and distress. It

enervates the powers of the mind, and benumbs the activity of man. The influence of slavery, united to the English character, explains the manners and the social condition of the Southern States.

In the North, the same English foundation was modified by the most opposite shades of character; and here I may be allowed to enter into some details. The two or three main ideas which constitute the basis of the social theory of the United States were first combined in the Northern English colonies, more generally denominated the States of New England.[5] The principles of New England spread at first to the neighbouring States; they then passed successively to the more distant ones; and at length they imbued the whole Confederation. They now extend their influence beyond its limits over the whole American world. The civilization of New England has been like a beacon lit upon a hill, which, after it has diffused its warmth around, tinges the distant horizon with its glow.

The foundation of New England was a novel spectacle, and all the circumstances attending it were singular and original. The large majority of colonies have been first inhabited either by men without education and without resources, driven by their poverty and their misconduct from the land which gave them birth, or by speculators and adventurers greedy of gain. Some settlements can not even boast so honourable an origin; St. Domingo was founded by buccaneers; and the criminal courts of England originally supplied the population of Australia.

The settlers who established themselves on the shores of New England all belonged to the more independent classes of their native country. Their union on the soil of America at once presented the singular phenomenon of a society containing neither lords nor common people, neither rich nor poor. These men possessed, in proportion to their number, a greater mass of intelligence than is to be found in any European nation of our own time. All, without a single exception, had received a good education, and many of them were known in Europe for their

talents and their acquirements. The other colonies had been founded by adventurers without family; the emigrants of New England brought with them the best elements of order and morality—they landed in the desert accompanied by their wives and children. But what most especially distinguished them was the aim of their undertaking. They had not been obliged by necessity to leave their country; the social position they abandoned was one to be regretted, and their means of subsistence were certain. Nor did they cross the Atlantic to improve their situation or to increase their wealth; the call which summoned them from the comforts of their homes was purely intellectual; and in facing the inevitable sufferings of exile their object was the triumph of an idea.

The emigrants, or, as they deservedly styled themselves, the Pilgrims, belonged to that English sect the austerity of whose principles had acquired for them the name of Puritans. Puritanism was not merely a religious doctrine, but it corresponded in many points with the most absolute democratic and republican theories. It was this tendency which had aroused its most dangerous adversaries. Persecuted by the Government of the mother-country, and disgusted by the habits of a society opposed to the rigour of their own principles, the Puritans went forth to seek some rude and unfrequented part of the world, where they could live according to their own opinions, and worship God in freedom.

A few quotations will throw more light upon the spirit of these pious adventurers than all we can say of them. Nathaniel Morton, the historian of the first years of the settlement, thus opens his subject:

"Gentle Reader—I have for some length of time looked upon it as a duty incumbent, especially on the immediate successors of those that have had so large experience of those many memorable and signal demonstrations of God's goodness, viz., the first beginners of this Plantation in New England, to commit to writing his gracious dispensations on that behalf; having so many inducements

thereunto, not onely otherwise but so plentifully in the Sacred Scriptures: that so, what we have seen, and what our fathers have told us (Psalm lxxviii: 3, 4), we may not hide from our children, showing to the generations to come the praises of the Lord; that especially the seed of Abraham his servant, and the children of Jacob his chosen (Psalm cv: 5, 6), may remember his marvellous works in the beginning and progress of the planting of New England, his wonders and the judgments of his mouth; how that God brought a vine into this wilderness; that he cast out the heathen, and planted it; that he made room for it and caused it to take deep root; and it filled the land (Psalm lxxx: 8, 9). And not onely so, but also that he hath guided his people by his strength to his holy habitation and planted them in the mountain of his inheritance in respect of precious Gospel enjoyments: and that as especially God may have the glory of all unto whom it is most due; so also some rays of glory may reach the names of those blessed Saints that were the main instruments and the beginning of this happy enterprise."

It is impossible to read this opening paragraph without an involuntary feeling of religious awe; it breathes the very savour of Gospel antiquity. The sincerity of the author heightens his power of language. The band which to his eyes was a mere party of adventurers gone forth to seek their fortune beyond seas appears to the reader as the germ of a great nation wafted by Providence to a predestined shore.

The author thus continues his narrative of the departure of the first pilgrims:

" So they left that goodly and pleasant city of Leyden, which had been their resting-place for above eleven years; but they knew that they were pilgrims and strangers here below, and looked not much on these things, but lifted up their eyes to Heaven, their dearest country, where God hath prepared for them a city (Heb. xi: 16), and therein quieted their spirits. When they came to Delfs-Haven they found the ship and all things ready; and such of their

friends as could not come with them followed after them, and sundry came from Amsterdam to see them shipt, and to take their leaves of them. One night was spent with little sleep with the most, but with friendly entertainment and Christian discourse, and other real expressions of true Christian love. The next day they went on board, and their friends with them, where truly doleful was the sight of that sad and mournful parting, to hear what sighs and sobs and prayers did sound amongst them; what tears did gush from every eye, and pithy speeches pierced each other's heart, that sundry of the Dutch strangers that stood on the Key as spectators could not refrain from tears. But the tide (which stays for no man) calling them away, that were thus loth to depart, their Reverend Pastor falling down on his knees, and they all with him, with watery cheeks commended them with most fervent prayers unto the Lord and his blessing; and then, with mutual embraces and many tears they took their leaves one of another, which proved to be the last leave to many of them."

The emigrants were about one hundred and fifty in number, including the women and the children. Their object was to plant a colony on the shores of the Hudson; but after having been driven about for some time in the Atlantic Ocean, they were forced to land on that arid coast of New England which is now the site of the town of Plymouth. The rock is still shown on which the Pilgrims disembarked.[6]

" But before we pass on," continues our historian, " let the reader with me make a pause and seriously consider this poor people's present condition, the more to be raised up to admiration of God's goodness towards them in their preservation: for being now passed the vast ocean, and a sea of troubles before them in expectation, they had now no friends to welcome them, no inns to entertain or refresh them, no houses, or much less towns to repair unto to seek for succour; and for the season it was winter, and they that know the winters of the country know them to

be sharp and violent, subject to cruel and fierce storms, dangerous to travel to known places, much more to search unknown coasts. Besides, what could they see but a hideous and desolate wilderness, full of wilde beasts, and wilde men? and what multitudes of them there were, they then knew not: for which way soever they turned their eyes (save upward to Heaven) they could have but little solace or content in respect of any outward object; for summer being ended, all things stand in appearance with a weather-beaten face, and the whole country full of woods and thickets, represented a wild and savage hew; if they looked behind them, there was the mighty ocean which they had passed, and was now as a main bar or gulph to separate them from all the civil parts of the world."

It must not be imagined that the piety of the Puritans was of a merely speculative kind, or that it took no cognizance of the course of worldly affairs. Puritanism, as I have already remarked, was scarcely less a political than a religious doctrine. No sooner had the emigrants landed on the barren coast described by Nathaniel Morton than it was their first care to constitute a society, by passing the following act:

"In the name of God. Amen. We, whose names are underwritten, the loyal subjects of our dread Sovereign Lord King James, &c., &c., Having undertaken for the glory of God, and advancement of the Christian Faith, and the honour of our King and country, a voyage to plant the first colony in the northern parts of Virginia; Do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick, for our better ordering and preservation, and furtherance of the ends aforesaid: and by virtue hereof do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the Colony: unto which we promise all due submission and obedience," etc.[7]

This happened in 1620, and from that time forward the

LANDING OF THE PILGRIMS.

Photogravure from an engraving by John Andrew, after a painting by Peter Frederick Rothermel.

emigration went on. The religious and political passions which ravaged the British Empire during the whole reign of Charles I drove fresh crowds of sectarians every year to the shores of America. In England the stronghold of Puritanism was in the middle classes, and it was from the middle classes that the majority of the emigrants came. The population of New England increased rapidly; and while the hierarchy of rank despotically classed the inhabitants of the mother-country, the colony continued to present the novel spectacle of a community homogeneous in all its parts. A democracy, more perfect than any which antiquity had dreamed of, started in full size and panoply from the midst of an ancient feudal society.

The English Government was not dissatisfied with an emigration which removed the elements of fresh discord and of further revolutions. On the contrary, everything was done to encourage it, and great exertions were made to mitigate the hardships of those who sought a shelter from the rigour of their country's laws on the soil of America. It seemed as if New England was a region given up to the dreams of fancy and the unrestrained experiments of innovators.

The English colonies (and this is one of the main causes of their prosperity) have always enjoyed more internal freedom and more political independence than the colonies of other nations; but this principle of liberty was nowhere more extensively applied than in the States of New England.

It was generally allowed at that period that the territories of the New World belonged to that European nation which had been the first to discover them. Nearly the whole coast of North America thus became a British possession toward the end of the sixteenth century. The means used by the English Government to people these new domains were of several kinds: the King sometimes appointed a governor of his own choice, who ruled a portion of the New World in the name and under the immediate orders of the Crown;[8] this is the colonial system

adopted by other countries of Europe. Sometimes grants of certain tracts were made by the Crown to an individual or to a company,[9] in which case all the civil and political power fell into the hands of one or more persons, who, under the inspection and control of the Crown, sold the lands and governed the inhabitants. Lastly, a third system consisted in allowing a certain number of emigrants to constitute a political society under the protection of the mother-country, and to govern themselves in whatever was not contrary to her laws. This mode of colonization, so remarkably favourable to liberty, was only adopted in New England.[10]

In 1628 a charter of this kind was granted by Charles I to the emigrants who went to form the colony of Massachusetts. But, in general, charters were not given to the colonies of New England till they had acquired a certain existence. Plymouth, Providence, New Haven, the State of Connecticut, and that of Rhode Island were founded without the co-operation and almost without the knowledge of the mother-country. The new settlers did not derive their incorporation from the seat of the empire, although they did not deny its supremacy; they constituted a society of their own accord, and it was not till thirty or forty years afterward, under Charles II, that their existence was legally recognised by a royal charter.

This frequently renders it difficult to detect the link which connected the emigrants with the land of their forefathers in studying the earliest historical and legislative records of New England. They exercised the rights of sovereignty; they named their magistrates, concluded peace or declared war, made police regulations, and enacted laws as if their allegiance was due only to God.[11] Nothing can be more curious, and at the same time more instructive, than the legislation of that period; it is there that the solution of the great social problem which the United States now present to the world is to be found.

Among these documents we shall notice, as especially characteristic, the code of laws promulgated by the little

State of Connecticut in 1650. The legislators of Connecticut[12] begin with the penal laws, and, strange to say, they borrow their provisions from the text of Holy Writ. "Whosoever shall worship any other God than the Lord," says the preamble of the Code, "shall surely be put to death." This is followed by ten or twelve enactments of the same kind, copied verbatim from the books of Exodus, Leviticus, and Deuteronomy. Blasphemy, sorcery, adultery,[13] and rape were punished with death; an outrage offered by a son to his parents was to be expiated by the same penalty. The legislation of a rude and half-civilized people was thus applied to an enlightened and moral community. The consequence was that the punishment of death was never more frequently prescribed by the statute, and never more rarely enforced toward the guilty.

The chief care of the legislators, in this body of penal laws, was the maintenance of orderly conduct and good morals in the community: they constantly invaded the domain of conscience, and there was scarcely a sin which was not subject to magisterial censure. The reader is aware of the rigour with which these laws punished rape and adultery; intercourse between unmarried persons was likewise severely repressed. The judge was empowered to inflict a pecuniary penalty, a whipping, or marriage[14] on the misdemeanants; and if the records of the old courts of New Haven may be believed, prosecutions of this kind were not infrequent. We find a sentence bearing date the 1st of May, 1660, inflicting a fine and reprimand on a young woman who was accused of using improper language, and of allowing herself to be kissed. The Code of 1650 abounds in preventive measures. It punishes idleness and drunkenness with severity. Innkeepers are forbidden to furnish more than a certain quantity of liquor to each consumer; and simple lying, whenever it may be injurious, is checked by a fine or a flogging. In other places, the legislator, entirely forgetting the great principles of religious toleration which he had himself upheld in Europe, renders attendance on divine service compul-

sory, and goes so far as to visit with severe punishment,[15] and even with death, the Christians who chose to worship God according to a ritual differing from his own.[16] Sometimes, indeed, the zeal of his enactments induces him to descend to the most frivolous particulars: thus a law is to be found in the same Code which prohibits the use of tobacco. It must not be forgotten that these fantastical and vexatious laws were not imposed by authority, but that they were freely voted by all the persons interested, and that the manners of the community were even more austere and more puritanical than the laws. In 1649 a solemn association was formed in Boston to check the worldly luxury of long hair.[17]

These errors are no doubt discreditable to human reason; they attest the inferiority of our nature, which is incapable of laying firm hold upon what is true and just, and is often reduced to the alternative of two excesses. In strict connection with this penal legislation, which bears such striking marks of a narrow sectarian spirit, and of those religious passions which had been warmed by persecution and were still fermenting among the people, a body of political laws is to be found, which, though written two hundred years ago, is still ahead of the liberties of our age. The general principles which are the groundwork of modern constitutions—principles which were imperfectly known in Europe, and not completely triumphant even in Great Britain, in the seventeenth century—were all recognised and determined by the laws of New England: the intervention of the people in public affairs, the free voting of taxes, the responsibility of authorities, personal liberty, and trial by jury, were all positively established without discussion. From these fruitful principles consequences have been derived and applications have been made such as no nation in Europe has yet ventured to attempt.

In Connecticut the electoral body consisted, from its origin, of the whole number of citizens; and this is readily to be understood,[18] when we recollect that this people en-

joyed an almost perfect equality of fortune, and a still greater uniformity of opinions.[19] In Connecticut, at this period, all the executive functionaries were elected, including the Governor of the State. The citizens above the age of sixteen were obliged to bear arms; they formed a national militia, which appointed its own officers, and was to hold itself at all times in readiness to march for the defence of the country.

In the laws of Connecticut, as well as in all those of New England, we find the germ and gradual development of that township independence which is the life and mainspring of American liberty at the present day. The political existence of the majority of the nations of Europe commenced in the superior ranks of society, and was gradually and imperfectly communicated to the different members of the social body. In America, on the other hand, it may be said that the township was organized before the county, the county before the State, the State before the Union. In New England townships were completely and definitely constituted as early as 1650. The independence of the township was the nucleus round which the local interests, passions, rights, and duties collected and clung. It gave scope to the activity of a real political life most thoroughly democratic and republican. The colonies still recognised the supremacy of the mother-country; monarchy was still the law of the State; but the republic was already established in every township. The towns named their own magistrates of every kind, rated themselves, and levied their own taxes. In the parish of New England the law of representation was not adopted, but the affairs of the community were discussed, as at Athens, in the market-place, by a general assembly of the citizens.

In studying the laws which were promulgated in this first era of the American republics, it is impossible not to be struck by the remarkable acquaintance with the science of government and the advanced theory of legislation which they display. The ideas there formed of the duties of society toward its members are evidently much loftier

and more comprehensive than those of the European legislators at that time: obligations were there imposed which were elsewhere slighted. In the States of New England, from the first, the condition of the poor was provided for; strict measures were taken for the maintenance of roads, and surveyors were appointed to attend to them; registers were established in every parish, in which the results of public deliberations, and the births, deaths, and marriages of the citizens were entered; clerks were directed to keep these registers; officers were charged with the administration of vacant inheritances, and with the arbitration of litigated landmarks; and many others were created whose chief functions were the maintenance of public order in the community. The law enters into a thousand useful provisions for a number of social wants which are at present very inadequately felt in France.

But it is by the attention it pays to Public Education that the original character of American civilization is at once placed in the clearest light. "It being," says the law, "one chief project of Satan to keep men from the knowledge of the Scripture by persuading from the use of tongues, to the end that learning may not be buried in the graves of our forefathers, in church and commonwealth, the Lord assisting our endeavours. . . ." Here follow clauses establishing schools in every township, and obliging the inhabitants, under pain of heavy fines, to support them. Schools of a superior kind were founded in the same manner in the more populous districts. The municipal authorities were bound to enforce the sending of children to school by their parents; they were empowered to inflict fines upon all who refused compliance; and in cases of continued resistance society assumed the place of the parent, took possession of the child, and deprived the father of those natural rights which he used to so bad a purpose. The reader will undoubtedly have remarked the preamble of these enactments: in America religion is the road to knowledge, and the observance of the divine laws leads man to civil freedom.

If, after having cast a rapid glance over the state of American society in 1650, we turn to the condition of Europe, and more especially to that of the Continent, at the same period, we can not fail to be struck with astonishment. On the continent of Europe, at the beginning of the seventeenth century, absolute monarchy had everywhere triumphed over the ruins of the oligarchical and feudal liberties of the Middle Ages. Never were the notions of right more completely confounded than in the midst of the splendour and literature of Europe; never was there less political activity among the people; never were the principles of true freedom less widely circulated; and at that very time those principles, which were scorned or unknown by the nations of Europe, were proclaimed in the deserts of the New World, and were accepted as the future creed of a great people. The boldest theories of the human reason were put into practice by a community so humble that not a statesman condescended to attend to it; and a legislation without a precedent was produced offhand by the imagination of the citizens. In the bosom of this obscure democracy, which had as yet brought forth neither generals, nor philosophers, nor authors, a man might stand up in the face of a free people and pronounce the following fine definition of liberty:[20]

"Nor would I have you to mistake in the point of your own liberty. There is a liberty of a corrupt nature which is effected both by men and beasts to do what they list, and this liberty is inconsistent with authority, impatient of all restraint; by this liberty 'sumus omnes deteriores': 'tis the grand enemy of truth and peace, and all the ordinances of God are bent against it. But there is a civil, a moral, a federal liberty which is the proper end and object of authority; it is a liberty for that only which is just and good: for this liberty you are to stand with the hazard of your very lives, and whatsoever crosses it is not authority, but a distemper thereof. This liberty is maintained in a way of subjection to authority; and the authority set over you will, in all administrations for your good, be

quietly submitted unto by all but such as have a disposition to shake off the yoke and lose their true liberty, by their murmuring at the honour and power of authority."

The remarks I have made will suffice to display the character of Anglo-American civilization in its true light. It is the result (and this should be constantly present to the mind) of two distinct elements, which in other places have been in frequent hostility, but which in America have been admirably incorporated and combined with one another. I allude to the spirit of religion and the spirit of Liberty.

The settlers of New England were at the same time ardent sectarians and daring innovators. Narrow as the limits of some of their religious opinions were, they were entirely free from political prejudices. Hence arose two tendencies, distinct but not opposite, which are constantly discernible in the manners as well as in the laws of the country.

It might be imagined that men who sacrificed their friends, their family, and their native land to a religious conviction were absorbed in the pursuit of the intellectual advantages which they purchased at so dear a rate. The energy, however, with which they strove for the acquirement of wealth, moral enjoyment, and the comforts as well as liberties of the world, is scarcely inferior to that with which they devoted themselves to Heaven.

Political principles and all human laws and institutions were moulded and altered at their pleasure; the barriers of the society in which they were born were broken down before them; the old principles which had governed the world for ages were no more; a path without a term and a field without an horizon were opened to the exploring and ardent curiosity of man: but at the limits of the political world he checks his researches, he discreetly lays aside the use of his most formidable faculties, he no longer consents to doubt or to innovate, but carefully abstaining from raising the curtain of the sanctuary, he yields with submissive respect to truths which he will not discuss. Thus, in

the moral world everything is classed, adapted, decided, and foreseen; in the political world everything is agitated, uncertain, and disputed: in the one is a passive, though a voluntary, obedience; in the other an independence scornful of experience and jealous of authority.

These two tendencies, apparently so discrepant, are far from conflicting; they advance together, and mutually support each other. Religion perceives that civil liberty affords a noble exercise to the faculties of man, and that the political world is a field prepared by the Creator for the efforts of the intelligence. Contented with the freedom and the power which it enjoys in its own sphere, and with the place which it occupies, the empire of religion is never more surely established than when it reigns in the hearts of men unsupported by aught beside its native strength. Religion is no less the companion of liberty in all its battles and its triumphs; the cradle of its infancy, and the divine source of its claims. The safeguard of morality is religion, and morality is the best security of law and the surest pledge of freedom.[21]

The reader is cautioned not to draw too general or too absolute an inference from what has been said. The social condition, the religion, and the manners of the first emigrants undoubtedly exercised an immense influence on the destiny of their new country. Nevertheless they were not in a situation to found a state of things solely dependent on themselves: no man can entirely shake off the influence of the past, and the settlers, intentionally or involuntarily, mingled habits and notions derived from their education and from the traditions of their country with those habits and notions which were exclusively their own. To form a judgment on the Anglo-Americans of the present day it is therefore necessary to distinguish what is of Puritanical and what is of English origin.

Laws and customs are frequently to be met with in the United States which contrast strongly with all that surrounds them. These laws seem to be drawn up in a spirit contrary to the prevailing tenor of the American

legislation; and these customs are no less opposed to the tone of society. If the English colonies had been founded in an age of darkness, or if their origin was already lost in the lapse of years, the problem would be insoluble.

I shall quote a single example to illustrate what I advance. The civil and criminal procedure of the Americans has only two means of action—committal and bail. The first measure taken by the magistrate is to exact security from the defendant, or, in case of refusal, to incarcerate him: the ground of the accusation and the importance of the charges against him are then discussed. It is evident that a legislation of this kind is hostile to the poor man, and favourable only to the rich. The poor man has not always a security to produce, even in a civil cause; and if he is obliged to wait for justice in prison, he is speedily reduced to distress. The wealthy individual, on the contrary, always escapes imprisonment in civil causes; nay, more, he may readily elude the punishment which awaits him for a delinquency by breaking his bail. So that all the penalties of the law are, for him, reducible to fines.[22] Nothing can be more aristocratic than this system of legislation. Yet in America it is the poor who make the law, and they usually reserve the greatest social advantages to themselves. The explanation of the phenomenon is to be found in England; the laws of which I speak are English, and the Americans have retained them, however repugnant they may be to the tenor of their legislation and the mass of their ideas. Next to its habits, the thing which a nation is least apt to change is its civil legislation. Civil laws are only familiarly known to legal men, whose direct interest it is to maintain them as they are, whether good or bad, simply because they themselves are conversant with them. The body of the nation is scarcely acquainted with them; it merely perceives their action in particular cases; but it has some difficulty in seizing their tendency, and obeys them without premeditation. I have quoted one instance where it would have been easy to adduce a great number of others. The surface of American society

is, if I may use the expression, covered with a layer of democracy, from beneath which the old aristocratic colours sometimes peep.

Notes

[1] The Charter granted by the Crown of England in 1609 stipulated, among other conditions, that the adventurers should pay to the Crown a fifth of the produce of all gold and silver mines.

[2] A large portion of the adventurers, says Stith ("History of Virginia"), were unprincipled young men of family, whom their parents were glad to ship off, discharged servants, fraudulent bankrupts, or debauchees; and others of the same class, people more apt to pillage and destroy than to assist the settlement, were the seditious chiefs, who easily led this band into every kind of extravagance and excess.

[3] It was not till some time later that a certain number of rich English capitalists came to fix themselves in the colony.

[4] Slavery was introduced about the year 1620 by a Dutch vessel which landed twenty negroes on the banks of the river James.

[5] The States of New England are those situated to the east of the Hudson; they are now six in number: Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine.

[6] This rock is become an object of veneration in the United States. I have seen bits of it carefully preserved in several towns of the Union. Does not this sufficiently show how entirely all human power and greatness is in the soul of man? Here is a stone which the feet of a few outcasts pressed for an instant, and this stone becomes famous; it is treasured by a great nation, its very dust is shared as a relic: and what is become of the gateways of a thousand palaces?

[7] The emigrants who founded the State of Rhode Island in 1638, those who landed at New Haven in 1637, the first settlers in Connecticut in 1639, and the founders of Providence in 1640, began in like manner by drawing up a social contract, which was acceded to by all the interested parties.

[8] This was the case in the State of New York.

[9] Maryland, the Carolinas, Pennsylvania, and New Jersey were in this situation.

[10] See the work entitled "Historical Collection of State Papers and other Authentic Documents intended as Materials for a History of the United States of America, by Ebenezer Hasard. Philadelphia, 1792," for a great number of documents relating to the early days of the colonies, which are valuable from their contents and their authenticity: among them are the various charters granted by the King of England, and the first acts of the local governments.

See also the analysis of all these charters given by Mr. Story, Justice of the Supreme Court of the United States, in the Introduction to his "Commentary on the Constitution of the United States." It results from these documents that the principles of representative government and the external forms of political liberty were introduced into all the colonies at their origin. These principles were more fully acted upon in the North than in the South, but they existed everywhere.

[11] The inhabitants of Massachusetts had deviated from the forms which are preserved in the criminal and civil procedure of England; in 1650 the decrees of justice were not yet headed by the royal style.

[12] See also the penal code adopted in 1648 by the colony of Massachusetts; this code is drawn up on the same principles as that of Connecticut.

[13] Adultery was also punished with death by the law of Massachusetts: and Hutchinson says that several persons actually suffered for this crime. He quotes a curious anecdote on this subject, which occurred in the year 1663. A married woman had had criminal intercourse with a young man; her husband died, and she married the lover. Several years had elapsed, when the public began to suspect the previous intercourse of this couple: they were thrown into prison, put upon trial, and very narrowly escaped capital punishment.

[14] It seems sometimes to have happened that the judges superadded these punishments to each other, as is seen in a sentence pronounced in 1643, by which Margaret Bedford, convicted of loose conduct, was condemned to be whipped, and afterward to marry Nicholas Jemmings, her accomplice.

[15] This was not peculiar to Connecticut. See, for instance, the law which, on the 13th of September, 1644, banished the Anabaptists from the State of Massachusetts. See also the law against the Quakers, passed on the 14th of October, 1656. "Whereas," says the preamble, "an accursed race of heretics called Quakers has sprung up," etc. The clauses of the statute inflict a heavy fine on all captains of ships who should import Quakers into the country. The Quakers who may be found there shall be whipped and imprisoned with hard labour. Those members of the sect who should defend their opinions shall be first fined, then imprisoned, and finally driven out of the province.

[16] By the penal laws of Massachusetts, any Catholic priest who should set foot in the colony after having been once driven out of it was liable to capital punishment.

[17] See Appendix, E.

[18] Constitution of 1638.

[19] In 1641 the General Assembly of Rhode Island unanimously declared that the government of the State was a democracy, and that the power was vested in the body of free citizens, who alone had the right to make the laws and to watch their execution.

[20] Mather's "Magnalia Christi Americana." This speech was made by Winthrop; he was accused of having committed arbitrary actions during his magistracy, but after having made the speech of which the above is a fragment, he was acquitted by acclamation, and from that time forward he was always re-elected Governor of the State.

[21] See Appendix, F.

[22] Crimes exist for which bail is inadmissible, but they are few in number.

CHAPTER III

THE STRIKING CHARACTERISTIC OF THE SOCIAL CONDITION OF THE ANGLO-AMERICANS IS ITS ESSENTIAL DEMOCRACY

The first emigrants of New England—Aristocratic laws introduced in the South—Period of the Revolution—Change in the law of descent—Effects produced by this change—Democracy carried to its utmost limits in the new States of the West—Equality of education—Political consequences of the social condition of the Anglo-Americans.

A SOCIAL condition is commonly the result of circumstances, sometimes of laws, oftener still of these two causes united; but wherever it exists, it may justly be considered as the source of almost all the laws, the usages, and the ideas which regulate the conduct of nations; whatever it does not produce it modifies. It is therefore necessary, if we would become acquainted with the legislation and the manners of a nation, to begin by the study of its social condition.

Many important observations suggest themselves upon the social condition of the Anglo-Americans, but there is one which takes precedence of all the rest. The social condition of the Americans is eminently democratic; this was its character at the foundation of the colonies, and is still more strongly marked at the present day. I have stated in the preceding chapter that great equality existed among the emigrants who settled on the shores of New England. The germ of aristocracy was never planted in that part of the Union. The only influence which obtained there was that of intellect; the people were used to reverence certain names as the emblems of knowledge and virtue. Some of their fellow-citizens ac-

quired a power over the rest which might truly have been called aristocratic, if it had been capable of transmission from father to son.

This was the state of things to the east of the Hudson: to the southwest of that river, and in the direction of the Floridas, the case was different. In most of the States situated to the southwest of the Hudson some great English proprietors had settled, who had imported with them aristocratic principles and the English law of descent. I have explained the reasons why it was impossible ever to establish a powerful aristocracy in America; these reasons existed with less force to the southwest of the Hudson. In the South, one man, aided by slaves, could cultivate a great extent of country: it was therefore common to see rich landed proprietors. But their influence was not altogether aristocratic as that term is understood in Europe, since they possessed no privileges; and the cultivation of their estates being carried on by slaves, they had no tenants depending on them, and consequently no patronage. Still, the great proprietors south of the Hudson constituted a superior class, having ideas and tastes of its own, and forming the centre of political action. This kind of aristocracy sympathized with the body of the people, whose passions and interests it easily embraced; but it was too weak and too short-lived to excite either love or hatred for itself. This was the class which headed the insurrection in the South, and furnished the best leaders of the American Revolution.

At the period of which we are now speaking society was shaken to its centre: the people, in whose name the struggle had taken place, conceived the desire of exercising the authority which it had acquired; its democratic tendencies were awakened; and having thrown off the yoke of the mother-country, it aspired to independence of every kind. The influence of individuals gradually ceased to be felt, and custom and law united together to produce the same result.

But the law of descent was the last step to equality. I

am surprised that ancient and modern jurists have not attributed to this law a greater influence on human affairs.[1] It is true that these laws belong to civil affairs; but they ought nevertheless to be placed at the head of all political institutions; for, while political laws are only the symbol of a nation's condition, they exercise an incredible influence upon its social state. They have, moreover, a sure and uniform manner of operating upon society, affecting, as it were, generations yet unborn.

Through their means man acquires a kind of preternatural power over the future lot of his fellow-creatures. When the legislator has regulated the law of inheritance, he may rest from his labour. The machine once put in motion will go on for ages, and advance, as if self-guided, toward a given point. When framed in a particular manner, this law unites, draws together, and vests property and power in a few hands: its tendency is clearly aristocratic. On opposite principles its action is still more rapid; it divides, distributes, and disperses both property and power. Alarmed by the rapidity of its progress, those who despair of arresting its motion endeavour to obstruct it by difficulties and impediments; they vainly seek to counteract its effect by contrary efforts; but it gradually reduces or destroys every obstacle, until by its incessant activity the bulwarks of the influence of wealth are ground down to the fine and shifting sand which is the basis of democracy. When the law of inheritance permits, still more when it decrees, the equal division of a father's property among all his children, its effects are of two kinds: it is important to distinguish them from each other, although they tend to the same end.

In virtue of the law of partible inheritance, the death of every proprietor brings about a kind of revolution in property; not only do his possessions change hands, but their very nature is altered, since they are parcelled into shares, which become smaller and smaller at each division. This is the direct and, as it were, the physical effect of the law. It follows, then, that in countries where equality of in-

heritance is established by law, property, and especially landed property, must have a tendency to perpetual diminution. The effects, however, of such legislation would only be perceptible after a lapse of time, if the law was abandoned to its own working; for supposing the family to consist of two children (and in a country peopled as France is the average number is not above three), these children, sharing among them the fortune of both parents, would not be poorer than their father or mother.

But the law of equal division exercises its influence not merely upon the property itself, but it affects the minds of the heirs, and brings their passions into play. These indirect consequences tend powerfully to the destruction of large fortunes, and especially of large domains. Among nations whose law of descent is founded upon the right of primogeniture landed estates often pass from generation to generation without undergoing division, the consequence of which is that family feeling is to a certain degree incorporated with the estate. The family represents the estate, the estate the family; whose name, together with its origin, its glory, its power, and its virtues, is thus perpetuated in an imperishable memorial of the past and a sure pledge of the future.

When the equal partition of property is established by law, the intimate connection is destroyed between family feeling and the preservation of the paternal estate; the property ceases to represent the family; for as it must inevitably be divided after one or two generations, it has evidently a constant tendency to diminish, and must in the end be completely dispersed. The sons of the great landed proprietor, if they are few in number, or if fortune befriends them, may indeed entertain the hope of being as wealthy as their father, but not that of possessing the same property as he did; the riches must necessarily be composed of elements different from his.

Now, from the moment that you divest the landowner of that interest in the preservation of his estate which he derives from association, from tradition, and from family

pride, you may be certain that sooner or later he will dispose of it; for there is a strong pecuniary interest in favour of selling, as floating capital produces higher interest than real property, and is more readily available to gratify the passions of the moment.

Great landed estates which have once been divided never come together again; for the small proprietor draws from his land a better revenue, in proportion, than the large owner does from his, and of course he sells it at a higher rate.[2] The calculations of gain, therefore, which decide the rich man to sell his domain will still more powerfully influence him against buying small estates to unite them into a large one.

What is called family pride is often founded upon an illusion of self-love. A man wishes to perpetuate and immortalize himself, as it were, in his great-grandchildren. Where the esprit de famille ceases to act, individual selfishness comes into play. When the idea of family becomes vague, indeterminate, and uncertain, a man thinks of his present convenience; he provides for the establishment of his succeeding generation, and no more. Either a man gives up the idea of perpetuating his family, or at any rate he seeks to accomplish it by other means than that of a landed estate. Thus not only does the law of partible inheritance render it difficult for families to preserve their ancestral domains entire, but it deprives them of the inclination to attempt it, and compels them in some measure to co-operate with the law in their own extinction.

The law of equal distribution proceeds by two methods: by acting upon things, it acts upon persons; by influencing persons, it affects things. By these means the law succeeds in striking at the root of landed property, and dispersing rapidly both families and fortunes.[3]

Most certainly it is not for us Frenchmen of the nineteenth century, who daily witness the political and social changes which the law of partition is bringing to pass, to question its influence. It is perpetually conspicuous in our country, overthrowing the walls of our dwellings and re-

moving the landmarks of our fields. But although it has produced great effects in France, much still remains for it to do. Our recollections, opinions, and habits present powerful obstacles to its progress.

In the United States it has nearly completed its work of destruction, and there we can best study its results. The English laws concerning the transmission of property were abolished in almost all the States at the time of the Revolution. The law of entail was so modified as not to interrupt the free circulation of property.[4] The first generation having passed away, estates began to be parcelled out, and the change became more and more rapid with the progress of time. At this moment, after a lapse of a little more than sixty years, the aspect of society is totally altered; the families of the great landed proprietors are almost all commingled with the general mass. In the State of New York, which formerly contained many of these, there are but two who still keep their heads above the stream, and they must shortly disappear. The sons of these opulent citizens are become merchants, lawyers, or physicians. Most of them have lapsed into obscurity. The last trace of hereditary ranks and distinctions is destroyed —the law of partition has reduced all to one level.

I do not mean that there is any deficiency of wealthy individuals in the United States; I know of no country, indeed, where the love of money has taken stronger hold upon the affections of men, and where profounder contempt is expressed for the theory of the permanent equality of property. But wealth circulates with inconceivable rapidity, and experience shows that it is rare to find two succeeding generations in the full enjoyment of it.

This picture, which may perhaps be thought to be overcharged, still gives a very imperfect idea of what is taking place in the new States of the West and Southwest. At the end of the last century a few bold adventurers began to penetrate into the valleys of the Mississippi, and the mass of the population very soon began to move in that direction: communities unheard of till then were seen

to emerge from the wilds: States whose names were not in existence a few years before claimed their place in the American Union; and in the Western settlements we may behold democracy arrived at its utmost extreme. In these States, founded offhand, and, as it were, by chance, the inhabitants are but of yesterday. Scarcely known to one another, the nearest neighbours are ignorant of each other's history. In this part of the American continent, therefore, the population has not experienced the influence of great names and great wealth, nor even that of the natural aristocracy of knowledge and virtue. None are there to wield that respectable power which men willingly grant to the remembrance of a life spent in doing good before their eyes. The new States of the West are already inhabited, but society has no existence among them.[5]

It is not only the fortunes of men which are equal in America; even their requirements partake in some degree of the same uniformity. I do not believe that there is a country in the world where, in proportion to the population, there are so few uninstructed and at the same time so few learned individuals. Primary instruction is within the reach of everybody; superior instruction is scarcely to be obtained by any. This is not surprising; it is, in fact, the necessary consequence of what we have advanced above. Almost all the Americans are in easy circumstances, and can therefore obtain the first elements of human knowledge.

In America there are comparatively few who are rich enough to live without a profession. Every profession requires an apprenticeship, which limits the time of instruction to the early years of life. At fifteen they enter upon their calling, and thus their education ends at the age when ours begins. Whatever is done afterward is with a view to some special and lucrative object; a science is taken up as a matter of business, and the only branch of it which is attended to is such as admits of an immediate practical application. In America most of the rich men

were formerly poor; most of those who now enjoy leisure were absorbed in business during their youth; the consequence of which is, that when they might have had a taste for study they had no time for it, and when time is at their disposal they have no longer the inclination.

There is no class, then, in America in which the taste for intellectual pleasures is transmitted with hereditary fortune and leisure, and by which the labours of the intellect are held in honour. Accordingly, there is an equal want of the desire and the power of application to these objects.

A middle standard is fixed in America for human knowledge. All approach as near to it as they can; some as they rise, others as they descend. Of course, an immense multitude of persons are to be found who entertain the same number of ideas on religion, history, science, political economy, legislation, and government. The gifts of intellect proceed directly from God, and man can not prevent their unequal distribution. But in consequence of the state of things which we have here represented it happens that, although the capacities of men are widely different, as the Creator has doubtless intended they should be, they are submitted to the same method of treatment.

In America the aristocratic element has always been feeble from its birth; and if at the present day it is not actually destroyed, it is at any rate so completely disabled that we can scarcely assign to it any degree of influence in the course of affairs. The democratic principle, on the contrary, has gained so much strength by time, by events, and by legislation, as to have become not only predominant but all-powerful. There is no family or corporate authority, and it is rare to find even the influence of individual character enjoying any durability.

America, then, exhibits in her social state a most extraordinary phenomenon. Men are there seen on a greater equality in point of fortune and intellect, or, in other words, more equal in their strength, than in any other country

of the world, or in any age of which history has preserved the remembrance.

The political consequences of such a social condition as this are easily deducible. It is impossible to believe that equality will not eventually find its way into the political world as it does everywhere else. To conceive of men remaining forever unequal upon one single point, yet equal on all others, is impossible; they must come in the end to be equal upon all. Now I know of only two methods of establishing equality in the political world; every citizen must be put in possession of his rights, or rights must be granted to no one. For nations which are arrived at the same stage of social existence as the Anglo-Americans, it is therefore very difficult to discover a medium between the sovereignty of all and the absolute power of one man: and it would be vain to deny that the social condition which I have been describing is equally liable to each of these consequences.

There is, in fact, a manly and lawful passion for equality which excites men to wish all to be powerful and honoured. This passion tends to elevate the humble to the rank of the great; but there exists also in the human heart a depraved taste for equality, which impels the weak to attempt to lower the powerful to their own level, and reduces men to prefer equality in slavery to inequality with freedom. Not that those nations whose social condition is democratic naturally despise liberty; on the contrary, they have an instinctive love of it. But liberty is not the chief and constant object of their desires; equality is their idol: they make rapid and sudden efforts to obtain liberty, and if they miss their aim resign themselves to their disappointment; but nothing can satisfy them except equality, and rather than lose it they resolve to perish.

On the other hand, in a State where the citizens are nearly on an equality, it becomes difficult for them to preserve their independence against the aggressions of power. No one among them being strong enough to engage in the struggle with advantage, nothing but a general com-

bination can protect their liberty. And such a union is not always to be found.

From the same social position, then, nations may derive one or the other of two great political results; these results are extremely different from each other, but they may both proceed from the same cause.

The Anglo-Americans are the first nations who, having been exposed to this formidable alternative, have been happy enough to escape the dominion of absolute power. They have been allowed by their circumstances, their origin, their intelligence, and especially by their moral feeling, to establish and maintain the sovereignty of the people.

NOTES

[1] I understand by the law of descent all those laws whose principal object is to regulate the distribution of property after the death of its owner. The law of entail is of this number; it certainly prevents the owner from disposing of his possessions before his death; but this is solely with the view of preserving them entire for the heir. The principal object, therefore, of the law of entail is to regulate the descent of property after the death of its owner: its other provisions are merely means to this end.

[2] I do not mean to say that the small proprietor cultivates his land better, but he cultivates it with more ardour and care: so that he makes up by his labour for his want of skill.

[3] Land being the most stable kind of property, we find, from time to time, rich individuals who are disposed to make great sacrifices in order to obtain it, and who willingly forfeit a considerable part of their income to make sure of the rest. But these are accidental cases. The preference for landed property is no longer found habitually in any class but among the poor. The small landowner, who has less information, less imagination, and fewer passions than the great one, is generally occupied with the desire of increasing his estate: and it often happens that by inheritance, by marriage, or by the chances of trade, he is gradually furnished with the means. Thus, to balance the tendency which leads men to divide their estates, there exists another, which incites them to add to them. This tendency, which is sufficient to prevent estates from being divided ad infinitum, is not strong enough to create great territorial possessions, certainly not to keep them up in the same family.

[4] See Appendix, G.

[5] [This may have been true in 1832, but it is not so in 1898, when great cities like Chicago and San Francisco have sprung up in the Western States.]

CHAPTER IV

THE PRINCIPLE OF THE SOVEREIGNTY OF THE PEOPLE IN AMERICA

Its predomination over the whole of society in America—Application made of this principle by the Americans even before their Revolution—Development given to it by that Revolution—Gradual and irresistible extension of the elective qualification.

WHENEVER the political laws of the United States are to be discussed, it is with the doctrine of the sovereignty of the people that we must begin. The principle of the sovereignty of the people, which is to be found, more or less, at the bottom of almost all human institutions, generally remains concealed from view. It is obeyed without being recognised, or if for a moment it be brought to light, it is hastily cast back into the gloom of the sanctuary. "The will of the nation" is one of those expressions which have been most profusely abused by the wily and the despotic of every age. To the eyes of some it has been represented by the venal suffrages of a few of the satellites of power; to others by the votes of a timid or an interested minority; and some have even discovered it in the silence of a people, on the supposition that the fact of submission established the right of command.

In America the principle of the sovereignty of the people is not either barren or concealed, as it is with some other nations; it is recognised by the customs and proclaimed by the laws; it spreads freely, and arrives without impediment at its most remote consequences. If there be a country in the world where the doctrine of the sover-

eignty of the people can be fairly appreciated, where it can be studied in its application to the affairs of society, and where its dangers and its advantages may be foreseen, that country is assuredly America.

I have already observed that, from their origin, the sovereignty of the people was the fundamental principle of the greater number of British colonies in America. It was far, however, from then exercising as much influence on the government of society as it now does. Two obstacles, the one external, the other internal, checked its invasive progress. It could not ostensibly disclose itself in the laws of colonies which were still constrained to obey the mother-country: it was therefore obliged to spread secretly, and to gain ground in the provincial assemblies, and especially in the townships.

American society was not yet prepared to adopt it with all its consequences. The intelligence of New England, and the wealth of the country to the south of the Hudson (as I have shown in the preceding chapter), long exercised a sort of aristocratic influence, which tended to retain the exercise of social authority in the hands of a few. The public functionaries were not universally elected, and the citizens were not all of them electors. The electoral franchise was everywhere placed within certain limits, and made dependent on a certain qualification, which was exceedingly low in the North and more considerable in the South.

The American Revolution broke out, and the doctrine of the sovereignty of the people, which had been nurtured in the townships and municipalities, took possession of the State: every class was enlisted in its cause; battles were fought, and victories obtained for it, until it became the law of laws.

A no less rapid change was effected in the interior of society, where the law of descent completed the abolition of local influences.

At the very time when this consequence of the laws and of the Revolution was apparent to every eye, victory was

irrevocably pronounced in favour of the democratic cause. All power was, in fact, in its hands, and resistance was no longer possible. The higher orders submitted without a murmur and without a struggle to an evil which was thenceforth inevitable. The ordinary fate of falling powers awaited them; each of their several members followed his own interests; and as it was impossible to wring the power from the hands of a people which they did not detest sufficiently to brave, their only aim was to secure its good-will at any price. The most democratic laws were consequently voted by the very men whose interests they impaired; and thus, although the higher classes did not excite the passions of the people against their order, they accelerated the triumph of the new state of things; so that by a singular change the democratic impulse was found to be most irresistible in the very States where the aristocracy had the firmest hold. The State of Maryland, which had been founded by men of rank, was the first to proclaim universal suffrage, and to introduce the most democratic forms into the conduct of its government.

When a nation modifies the elective qualification, it may easily be foreseen that sooner or later that qualification will be entirely abolished. There is no more invariable rule in the history of society: the further electoral rights are extended, the greater is the need of extending them; for after each concession the strength of the democracy increases, and its demands increase with its strength. The ambition of those who are below the appointed rate is irritated in exact proportion to the great number of those who are above it. The exception at last becomes the rule, concession follows concession, and no stop can be made short of universal suffrage.

At the present day the principle of the sovereignty of the people has acquired, in the United States, all the practical development which the imagination can conceive. It is unencumbered by those fictions which have been thrown over it in other countries, and it appears in every possible form according to the exigency of the occasion. Some-

times the laws are made by the people in a body, as at Athens; and sometimes its representatives, chosen by universal suffrage, transact business in its name, and almost under its immediate control.

In some countries a power exists which, though it is in a degree foreign to the social body, directs it, and forces it to pursue a certain track. In others the ruling force is divided, being partly within and partly without the ranks of the people. But nothing of the kind is to be seen in the United States; there society governs itself for itself. All power centres in its bosom; and scarcely an individual is to be met with who would venture to conceive, or, still less, to express, the idea of seeking it elsewhere. The nation participates in the making of its laws by the choice of its legislators, and in the execution of them by the choice of the agents of the executive government; it may almost be said to govern itself, so feeble and so restricted is the share left to the administration, so little do the authorities forget their popular origin and the power from which they emanate.[1]

NOTE

[1] See Appendix, H.

CHAPTER V

TOWNSHIPS AND MUNICIPAL BODIES

Necessity of examining the condition of the States before that of the Union at large—The American system of townships and municipal bodies—Authorities of the township in New England—Existence of the township—Public spirit of the townships of New England—The counties of New England—Administration in New England—General remarks on the administration of the United States—Of the State—Legislative power of the State—The executive power of the State—Political effects of the system of local administration in the United States.

IT is proposed to examine in the following chapter what is the form of government established in America on the principle of the sovereignty of the people; what are its resources, its hindrances, its advantages, and its dangers. The first difficulty which presents itself arises from the complex nature of the Constitution of the United States, which consists of two distinct social structures, connected and, as it were, incased one within the other; two governments, completely separate and almost independent, the one fulfilling the ordinary duties and responding to the daily and indefinite calls of a community, the other circumscribed within certain limits, and only exercising an exceptional authority over the general interests of the country. In short, there are twenty-four small sovereign nations, whose agglomeration constitutes the body of the Union. To examine the Union before we have studied the States would be to adopt a method filled with obstacles. The form of the Federal Government of the United States was the last which was adopted; and it is, in fact, nothing more than a modification or a summary of those republican principles which were current in the whole com-

munity before it existed, and independently of its existence. Moreover, the Federal Government is, as I have just observed, the exception; the government of the States is the rule. The author who should attempt to exhibit the picture as a whole before he had explained its details would necessarily fall into obscurity and repetition.

The great political principles which govern American society at this day undoubtedly took their origin and their growth in the State. It is therefore necessary to become acquainted with the State in order to possess a clew to the remainder. The States which at present compose the American Union all present the same features, as far as regards the external aspect of their institutions. Their political or administrative existence is centred in three focuses of action, which may not inaptly be compared to the different nervous centres which convey motion to the human body. The township is the lowest in order, then the county, and lastly the State; and I propose to devote the following chapter to the examination of these three divisions.

It is not undesignedly that I begin this subject with the township. The village or township is the only association which is so perfectly natural that wherever a number of men are collected it seems to constitute itself.

The town, or tithing, as the smallest division of a community, must necessarily exist in all nations, whatever their laws and customs may be: if man makes monarchies and establishes republics, the first association of mankind seems constituted by the hand of God. But although the existence of the township is coeval with that of man, its liberties are not the less rarely respected and easily destroyed. A nation is always able to establish great political assemblies, because it habitually contains a certain number of individuals fitted by their talents, if not by their habits, for the direction of affairs. The township is, on the contrary, composed of coarser materials, which are less easily fashioned by the legislator. The difficulties which attend the consolidation of its independence rather aug-

ment than diminish with the increasing enlightenment of the people. A highly civilized community spurns the attempts of a local independence, is disgusted at its numerous blunders, and is apt to despair of success before the experiment is completed. Again, no immunities are so ill protected from the encroachments of the supreme power as those of municipal bodies in general: they are unable to struggle, single-handed, against a strong or an enterprising government, and they can not defend their cause with success unless it be identified with the customs of the nation and supported by public opinion. Thus until the independence of townships is amalgamated with the manners of a people it is easily destroyed, and it is only after a long existence in the laws that it can be thus amalgamated. Municipal freedom is not the fruit of human device; it is rarely created; but it is, as it were, secretly and spontaneously engendered in the midst of a semi-barbarous state of society. The constant action of the laws and the national habits, peculiar circumstances, and above all, time may consolidate it; but there is certainly no nation on the continent of Europe which has experienced its advantages. Nevertheless local assemblies of citizens constitute the strength of free nations. Town-meetings are to liberty what primary schools are to science; they bring it within the people's reach, they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions it can not have the spirit of liberty. The transient passions and the interests of an hour, or the chance of circumstances, may have created the external forms of independence; but the despotic tendency which has been repelled will, sooner or later, inevitably reappear on the surface.

In order to explain to the reader the general principles on which the political organization of the counties and townships of the United States rest, I have thought it expedient to choose one of the States of New England as an example, to examine the mechanism of its constitution,

and then to cast a general glance over the country. The township and the county are not organized in the same manner in every part of the Union; it is, however, easy to perceive that the same principles have guided the formation of both of them throughout the Union. I am inclined to believe that these principles have been carried further in New England than elsewhere, and consequently that they offer greater facilities to the observation of a stranger. The institutions of New England form a complete and regular whole; they have received the sanction of time, they have the support of the laws, and the still stronger support of the manners of the community, over which they exercise the most prodigious influence; they consequently deserve our attention on every account.

The township of New England is a division which stands between the commune and the canton of France, and which corresponds in general to the English tithing, or town. Its average population is from two to three thousand;[1] so that, on the one hand, the interests of its inhabitants are not likely to conflict, and, on the other, men capable of conducting its affairs are always to be found among its citizens.

In the township, as well as everywhere else, the people is the only source of power; but in no stage of government does the body of citizens exercise a more immediate influence. In America the people is a master whose exigencies demand obedience to the utmost limits of possibility.

In New England the majority acts by representatives in the conduct of the public business of the State; but if such an arrangement be necessary in general affairs, in the townships, where the legislative and administrative action of the government is in more immediate contact with the subject, the system of representation is not adopted. There is no corporation; but the body of electors, after having designated its magistrates, directs them in everything that exceeds the simple and ordinary executive business of the State.[2]

This state of things is so contrary to our ideas, and so different from our customs, that it is necessary for me to adduce some examples to explain it thoroughly. The public duties in the township are extremely numerous and minutely divided, as we shall see further on; but the larger proportion of administrative power is vested in the hands of a small number of individuals, called "the selectmen."[3] The general laws of the State impose a certain number of obligations on the selectmen, which they may fulfil without the authorization of the body they represent, but which they can only neglect on their own responsibility. The law of the State obliges them, for instance, to draw up the list of electors in their townships; and if they omit this part of their functions, they are guilty of a misdemeanour. In all the affairs, however, which are determined by the town-meeting, the selectmen are the organs of the popular mandate, as in France the Maire executes the decree of the municipal council. They usually act upon their own responsibility, and merely put in practice principles which have been previously recognised by the majority. But if any change is to be introduced in the existing state of things, or if they wish to undertake any new enterprise, they are obliged to refer to the source of their power. If, for instance, a school is to be established, the selectmen convoke the whole body of the electors on a certain day at an appointed place; they explain the urgency of the case; they give their opinion on the means of satisfying it, on the probable expense, and the site which seems to be most favourable. The meeting is consulted on these several points; it adopts the principle, marks out the site, votes the rate, and confides the execution of its resolution to the selectmen.

The selectmen alone have the right of calling a town-meeting, but they may be requested to do so: if ten citizens are desirous of submitting a new project to the assent of the township, they may demand a general convocation of the inhabitants; the selectmen are obliged to comply, but they have only the right of presiding at the meeting.[4]

The selectmen are elected every year in the month of April or of May. The town-meeting chooses at the same time a number of other municipal magistrates, who are intrusted with important administrative functions. The assessors rate the township; the collectors receive the rate. A constable is appointed to keep the peace, to watch the streets, and to forward the execution of the laws; the town-clerk records all the town votes, orders, grants, births, deaths, and marriages; the treasurer keeps the funds; the overseer of the poor performs the difficult task of superintending the action of the poor-laws; committee-men are appointed to attend to the schools and to public instruction; and the road-surveyors, who take care of the greater and lesser thoroughfares of the township, complete the list of the principal functionaries. They are, however, still further subdivided; and among the municipal officers are to be found parish commissioners, who audit the expenses of public worship; different classes of inspectors, some of whom are to direct the citizens in case of fire; tithing-men, listers, haywards, chimney-viewers, fence-viewers to maintain the bounds of property, timber-measurers, and sealers of weights and measures.[5]

There are nineteen principal offices in a township. Every inhabitant is constrained, on the pain of being fined, to undertake these different functions; which, however, are almost all paid, in order that the poorer citizens may be able to give up their time without loss. In general the American system is not to grant a fixed salary to its functionaries. Every service has its price, and they are remunerated in proportion to what they have done.

I have already observed that the principle of the sovereignty of the people governs the whole political system of the Anglo-Americans. Every page of this book will afford new instances of the same doctrine. In the nations by which the sovereignty of the people is recognised every individual possesses an equal share of power, and participates alike in the government of the State. Every individual is, therefore, supposed to be as well informed, as

virtuous, and as strong as any of his fellow-citizens. He obeys the government, not because he is inferior to the authorities which conduct it, or that he is less capable than his neighbour of governing himself, but because he acknowledges the utility of an association with his fellow-men, and because he knows that no such association can exist without a regulating force. If he be a subject in all that concerns the mutual relations of citizens, he is free and responsible to God alone for all that concerns himself. Hence arises the maxim that every one is the best and the sole judge of his own private interest, and that society has no right to control a man's actions, unless they are prejudicial to the common weal, or unless the common weal demands his co-operation. This doctrine is universally admitted in the United States. I shall hereafter examine the general influence which it exercises on the ordinary actions of life; I am now speaking of the nature of municipal bodies.

The township, taken as a whole, and in relation to the government of the country, may be looked upon as an individual to whom the theory I have just alluded to is applied. Municipal independence is therefore a natural consequence of the principle of the sovereignty of the people in the United States: all the American republics recognise it more or less; but circumstances have peculiarly favoured its growth in New England.

In this part of the Union the impulsion of political activity was given in the townships; and it may almost be said that each of them originally formed an independent nation. When the Kings of England asserted their supremacy, they were contented to assume the central power of the State. The townships of New England remained as they were before; and although they are now subject to the State, they were at first scarcely dependent upon it. It is important to remember that they have not been invested with privileges, but that they have, on the contrary, forfeited a portion of their independence to the State. The townships are only subordinate to the State

in those interests which I shall term social, as they are common to all the citizens. They are independent in all that concerns themselves; and among the inhabitants of New England I believe that not a man is to be found who would acknowledge that the State has any right to interfere in their local interests. The towns of New England buy and sell, sue or are sued, augment or diminish their rates, without the slightest opposition on the part of the administrative authority of the State.

They are bound, however, to comply with the demands of the community. If the State is in need of money, a town can neither give nor withhold the supplies. If the State projects a road, the township can not refuse to let it cross its territory; if a police regulation is made by the State, it must be enforced by the town. A uniform system of instruction is organized all over the country, and every town is bound to establish the schools which the law ordains. In speaking of the administration of the United States I shall have occasion to point out the means by which the townships are compelled to obey in these different cases: I here merely show the existence of the obligation. Strict as this obligation is, the government of the State imposes it in principle only, and in its performance the township resumes all its independent rights. Thus, taxes are voted by the State, but they are levied and collected by the township; the existence of a school is obligatory, but the township builds, pays, and superintends it. In France the State-collector receives the local imposts; in America the town-collector receives the taxes of the State. Thus the French Government lends its agents to the commune; in America the township is the agent of the Government. This fact alone shows the extent of the differences which exist between the two nations.

In America, not only do municipal bodies exist, but they are kept alive and supported by public spirit. The township of New England possesses two advantages which infallibly secure the attentive interest of mankind, namely, independence and authority. Its sphere is indeed small

and limited, but within that sphere its action is unrestrained; and its independence gives to it a real importance which extent and population may not always insure.

It is to be remembered that the affections of men generally lie on the side of authority. Patriotism is not durable in a conquered nation. The New-Englander is attached to his township, not only because he was born in it, but because it constitutes a social body of which he is a member, and whose government claims and deserves the exercise of his sagacity. In Europe the absence of local public spirit is a frequent subject of regret to those who are in power; every one agrees that there is no surer guarantee of order and tranquility, and yet nothing is more difficult to create. If the municipal bodies were made powerful and independent, the authorities of the nation might be disunited and the peace of the country endangered. Yet, without power and independence, a town may contain good subjects, but it can have no active citizens. Another important fact is that the township of New England is so constituted as to excite the warmest of human affections, without arousing the ambitious passions of the heart of man. The officers of the county are not elected, and their authority is very limited. Even the State is only a second-rate community, whose tranquil and obscure administration offers no inducement sufficient to draw men away from the circle of their interests into the turmoil of public affairs. The Federal Government confers power and honour on the men who conduct it; but these individuals can never be very numerous. The high station of the presidency can only be reached at an advanced period of life, and the other federal functionaries are generally men who have been favoured by fortune, or distinguished in some other career. Such can not be the permanent aim of the ambitious. But the township serves as a centre for the desire of public esteem, the want of exciting interests, and the taste for authority and popularity, in the midst of the ordinary relations of life; and the passions

which commonly embroil society change their character when they find a vent so near the domestic hearth and the family circle.

In the American States power has been disseminated with admirable skill for the purpose of interesting the greatest possible number of persons in the common weal. Independently of the electors who are from time to time called into action, the body politic is divided into innumerable functionaries and officers, who all, in their several spheres, represent the same powerful whole in whose name they act. The local administration thus affords an unfailing source of profit and interest to a vast number of individuals.

The American system, which divides the local authority among so many citizens, does not scruple to multiply the functions of the town officers. For in the United States it is believed, and with truth, that patriotism is a kind of devotion which is strengthened by ritual observance. In this manner the activity of the township is continually perceptible; it is daily manifested in the fulfilment of a duty or the exercise of a right, and a constant though gentle motion is thus kept up in society which animates without disturbing it.

The American attaches himself to his home as the mountaineer clings to his hills, because the characteristic features of his country are there more distinctly marked than elsewhere. The existence of the townships of New England is in general a happy one. Their government is suited to their tastes, and chosen by themselves. In the midst of the profound peace and general comfort which reign in America the commotions of municipal discord are infrequent. The conduct of local business is easy. The political education of the people has long been complete; say rather that it was complete when the people first set foot upon the soil. In New England no tradition exists of a distinction of ranks; no portion of the community is tempted to oppress the remainder; and the abuses which may injure isolated individuals are forgotten

in the general contentment which prevails. If the government is defective (and it would no doubt be easy to point out its deficiencies), the fact that it really emanates from those it governs, and that it acts, either ill or well, casts the protecting spell of a parental pride over its faults. No term of comparison disturbs the satisfaction of the citizen: England formerly governed the mass of the colonies, but the people was always sovereign in the township where its rule is not only an ancient but a primitive state.

The native of New England is attached to his township because it is independent and free: his co-operation in its affairs insures his attachment to its interest; the well-being it affords him secures his affection; and its welfare is the aim of his ambition and of his future exertions: he takes a part in every occurrence in the place; he practises the art of government in the small sphere within his reach; he accustoms himself to those forms which can alone insure the steady progress of liberty; he imbibes their spirit; he acquires a taste for order, comprehends the union or the balance of powers, and collects clear practical notions on the nature of his duties and the extent of his rights.

The division of the counties in America has considerable analogy with that of the arrondissements of France. The limits of the counties are arbitrarily laid down, and the various districts which they contain have no necessary connection, no common tradition or natural sympathy; their object is simply to facilitate the administration of justice.

The extent of the township was too small to contain a system of judicial institutions; each county has, however, a court of justice,[6] a sheriff to execute its decrees, and a prison for criminals. There are certain wants which are felt alike by all the townships of a county; it is therefore natural that they should be satisfied by a central authority. In the State of Massachusetts this authority is vested in the hands of several magistrates, who are appointed by the Governor of the State, with the advice[7] of his council.[8] The officers of the county have only a limited and

occasional authority, which is applicable to certain predetermined cases. The State and the townships possess all the power requisite to conduct public business. The budget of the county is drawn up by its officers, and is voted by the Legislature, but there is no assembly which directly or indirectly represents the county. It has therefore, properly speaking, no political existence.

A twofold tendency may be discerned in the American constitutions, which impels the legislator to centralize the legislative and to disperse the executive power. The township of New England has in itself an indestructible element of independence; and this distinct existence could only be fictitiously introduced into the county, where its utility has not been felt. But all the townships united have but one representation, which is the State, the centre of the national authority: beyond the action of the township and that of the nation, nothing can be said to exist but the influence of individual exertion.

Nothing is more striking to a European traveller in the United States than the absence of what we term the Government, or the Administration. Written laws exist in America, and one sees that they are daily executed; but although everything is in motion, the hand which gives the impulse to the social machine can nowhere be discovered. Nevertheless, as all peoples are obliged to have recourse to certain grammatical forms, which are the foundation of human language, in order to express their thoughts; so all communities are obliged to secure their existence by submitting to a certain dose of authority, without which they fall a prey to anarchy. This authority may be distributed in several ways, but it must always exist somewhere.

There are two methods of diminishing the force of authority in a nation: The first is to weaken the supreme power in its very principle, by forbidding or preventing society from acting in its own defence under certain circumstances. To weaken authority in this manner is what is generally termed in Europe to lay the foundations of

freedom. The second manner of diminishing the influence of authority does not consist in stripping society of any of its rights, nor in paralyzing its efforts, but in distributing the exercise of its privileges in various hands, and in multiplying functionaries, to each of whom the degree of power necessary for him to perform his duty is intrusted. There may be nations whom this distribution of social powers might lead to anarchy; but in itself it is not anarchical. The action of authority is indeed thus rendered less irresistible and less perilous, but it is not totally suppressed.

The Revolution of the United States was the result of a mature and dignified taste for freedom, and not of a vague or ill-defined craving for independence. It contracted no alliance with the turbulent passions of anarchy; but its course was marked, on the contrary, by an attachment to whatever was lawful and orderly.

It was never assumed in the United States that the citizen of a free country has a right to do whatever he pleases; on the contrary, social obligations were there imposed upon him more various than anywhere else. No idea was ever entertained of attacking the principles or of contesting the rights of society; but the exercise of its authority was divided, to the end that the office might be powerful and the officer insignificant, and that the community should be at once regulated and free. In no country in the world does the law hold so absolute a language as in America, and in no country is the right of applying it vested in so many hands. The administrative power in the United States presents nothing either central or hierarchical in its constitution, which accounts for its passing unperceived. The power exists, but its representative is not to be perceived.

We have already seen that the independent townships of New England protect their own private interests; and the municipal magistrates are the persons to whom the execution of the laws of the State is most frequently intrusted.[9] Besides the general laws, the State sometimes

passes general police regulations; but more commonly the townships and town-officers, conjointly with the justices of the peace, regulate the minor details of social life, according to the necessities of the different localities, and promulgate such enactments as concern the health of the community, and the peace as well as morality of the citizens.[10] Lastly, these municipal magistrates provide, of their own accord and without any delegated powers, for those unforeseen emergencies which frequently occur in society.[11]

It results from what we have said that in the State of Massachusetts the administrative authority is almost entirely restricted to the township,[12] but that it is distributed among a great number of individuals. In the French commune there is properly but one official functionary, namely, the Maire; and in New England we have seen that there are nineteen. These nineteen functionaries do not in general depend upon one another. The law carefully prescribes a circle of action to each of these magistrates; and within that circle they have an entire right to perform their functions independently of any other authority. Above the township scarcely any trace of a series of official dignitaries is to be found. It sometimes happens that the county officers alter a decision of the townships or town magistrates,[13] but in general the authorities of the county have no right to interfere with the authorities of the township,[14] except in such matters as concern the county.

The magistrates of the township, as well as those of the county, are bound to communicate their acts to the central government in a very small number of predetermined cases.[15] But the central government is not represented by an individual whose business it is to publish police regulations and ordinances enforcing the execution of the laws; to keep up a regular communication with the officers of the township and the county; to inspect their conduct, to direct their actions, or to reprimand their faults. There is no point which serves as a centre to the radii of the administration.

What, then, is the uniform plan on which the government is conducted, and how is the compliance of the counties and their magistrates or the townships and their officers enforced? In the States of New England the legislative authority embraces more subjects than it does in France; the legislator penetrates to the very core of the administration; the law descends to the most minute details; the same enactment prescribes the principle and the method of its application, and thus imposes a multitude of strict and rigorously defined obligations on the secondary functionaries of the State. The consequence of this is that if all the secondary functionaries of the administration conform to the law, society in all its branches proceeds with the greatest uniformity: the difficulty remains of compelling the secondary functionaries of the administration to conform to the law. It may be affirmed that, in general, society has only two methods of enforcing the execution of the laws at its disposal: a discretionary power may be intrusted to a superior functionary of directing all the others, and of cashiering them in case of disobedience; or the courts of justice may be authorized to inflict judicial penalties on the offender: but these two methods are not always available.

The right of directing a civil officer presupposes that of cashiering him if he does not obey orders, and of rewarding him by promotion if he fulfils his duties with propriety. But an elected magistrate can neither be cashiered nor promoted. All elective functions are inalienable until their term is expired. In fact, the elected magistrate has nothing either to expect or to fear from his constituents; and when all public offices are filled by ballot there can be no series of official dignities, because the double right of commanding and of enforcing obedience can never be vested in the same individual, and because the power of issuing an order can never be joined to that of inflicting a punishment or bestowing a reward.

The communities therefore in which the secondary functionaries of the government are elected are obliged

to make great use of judicial penalties as a means of administration. This is not evident at first sight; for those in power are apt to look upon the institution of elective functionaries as one concession, and the subjection of the elected magistrate to the judges of the land as another. They are equally averse to both these innovations; and as they are more pressingly solicited to grant the former than the latter, they accede to the election of the magistrate, and leave him independent of the judicial power. Nevertheless, the second of these measures is the only thing that can possibly counterbalance the first; and it will be found that an elective authority which is not subject to judicial power will, sooner or later, either elude all control or be destroyed. The courts of justice are the only possible medium between the central power and the administrative bodies; they alone can compel the elected functionary to obey, without violating the rights of the elector. The extension of judicial power in the political world ought therefore to be in the exact ratio of the extension of elective offices: if these two institutions do not go hand in hand, the State must fall into anarchy or into subjection.

It has always been remarked that habits of legal business do not render men apt to the exercise of administrative authority. The Americans have borrowed from the English, their fathers, the idea of an institution which is unknown upon the continent of Europe: I allude to that of the Justices of the Peace. The Justice of the Peace is a sort of mezzo termine between the magistrate and the man of the world, between the civil officer and the judge. A justice of the peace is a well-informed citizen, though he is not necessarily versed in the knowledge of the laws. His office simply obliges him to execute the police regulations of society; a task in which good sense and integrity are of more avail than legal science. The justice introduces into the administration a certain taste for established forms and publicity, which renders him a most unserviceable instrument of despotism; and, on the other

hand, he is not blinded by those superstitions which render legal officers unfit members of a government. The Americans have adopted the system of the English justices of the peace, but they have deprived it of that aristocratic character which is discernible in the mother-country. The Governor of Massachusetts[16] appoints a certain number of justices of the peace in every county, whose functions last seven years.[17] He further designates three individuals from among the whole body of justices who form in each county what is called the Court of Sessions. The justices take a personal share in public business; they are sometimes intrusted with administrative functions in conjunction with elected officers,[18] they sometimes constitute a tribunal, before which the magistrates summarily prosecute a refractory citizen, or the citizens inform against the abuses of the magistrate. But it is in the Court of Sessions that they exercise their most important functions. This court meets twice a year in the county town; in Massachusetts it is empowered to enforce the obedience of the greater number[19] of public officers.[20] It must be observed, that in the State of Massachusetts the Court of Sessions is at the same time an administrative body, properly so called, and a political tribunal. It has been asserted that the county is a purely administrative division. The Court of Sessions presides over that small number of affairs which, as they concern several townships, or all the townships of the county in common, can not be intrusted to any one of them in particular.[21] In all that concerns county business the duties of the Court of Sessions are purely administrative; and if in its investigations it occasionally borrows the forms of judicial procedure, it is only with a view to its own information,[22] or as a guarantee to the community over which it presides. But when the administration of the township is brought before it, it always acts as a judicial body, and in some few cases as an official assembly.

The first difficulty is to procure the obedience of an authority as entirely independent of the general laws of

the State as the township is. We have stated that assessors are annually named by the town-meetings to levy the taxes. If a township attempts to evade the payment of the taxes by neglecting to name its assessors, the Court of Sessions condemns it to a heavy penalty.[23] The fine is levied on each of the inhabitants; and the sheriff of the county, who is the officer of justice, executes the mandate. Thus it is that in the United States the authority of the Government is mysteriously concealed under the forms of a judicial sentence; and its influence is at the same time fortified by that irresistible power with which men have invested the formalities of law.

These proceedings are easy to follow and to understand. The demands made upon a township are in general plain and accurately defined; they consist in a simple fact without any complication, or in a principle without its application in detail.[24] But the difficulty increases when it is not the obedience of the township, but that of the town-officers, which is to be enforced. All the reprehensible actions of which a public functionary may be guilty are reducible to the following heads:

He may execute the law without energy or zeal;

He may neglect to execute the law;

He may do what the law enjoins him not to do.

The last two violations of duty can alone come under the cognizance of a tribunal; a positive and appreciable fact is the indispensable foundation of an action at law. Thus, if the selectmen omit to fulfil the legal formalities usual at town-elections, they may be condemned to pay a fine;[25] but when the public officer performs his duty without ability, and when he obeys the letter of the law without zeal or energy, he is at least beyond the reach of judicial interference. The Court of Sessions, even when it is invested with its official powers, is in this case unable to compel him to a more satisfactory obedience. The fear of removal is the only check to these quasi-offences; and as the Court of Sessions does not originate the town-authorities, it can not remove functionaries whom it does

not appoint. Moreover, a perpetual investigation would be necessary to convict the officer of negligence or lukewarmness; and the Court of Sessions sits but twice a year, and then only judges such offences as are brought before its notice. The only security of that active and enlightened obedience which a court of justice can not impose upon public officers lies in the possibility of their arbitrary removal. In France this security is sought for in powers exercised by the heads of the administration; in America it is sought for in the principle of election.

Thus, to recapitulate in a few words what I have been showing: If a public officer in New England commits a crime in the exercise of his functions, the ordinary courts of justice are always called upon to pass sentence upon him. If he commits a fault in his official capacity, a purely administrative tribunal is empowered to punish him; and, if the affair is important or urgent, the judge supplies the omission of the functionary.[26] Lastly, if the same individual is guilty of one of those intangible offences of which human justice has no cognizance, he annually appears before a tribunal from which there is no appeal, which can at once reduce him to insignificance and deprive him of his charge. This system undoubtedly possesses great advantages, but its execution is attended with a practical difficulty which it is important to point out.

I have already observed that the administrative tribunal, which is called the Court of Sessions, has no right of inspection over the town-officers. It can only interfere when the conduct of a magistrate is specially brought under its notice; and this is the delicate part of the system. The Americans of New England are unacquainted with the office of public prosecutor in the Court of Sessions,[27] and it may readily be perceived that it could not have been established without difficulty. If an accusing magistrate had merely been appointed in the chief town of each county, and if he had been unassisted by agents in the townships, he would not have been better acquainted with what was going on in the county than the members of the

Court of Sessions. But to appoint agents in each township would have been to centre in his person the most formidable of powers, that of a judicial administration. Moreover, laws are the children of habit, and nothing of the kind exists in the legislation of England. The Americans have therefore divided the offices of inspection and of prosecution, as well as all the other functions of the administration. Grand-jurors are bound by the law to apprise the court to which they belong of all the misdemeanours which may have been committed in their county.[28] There are certain great offences which are officially prosecuted by the States;[29] but more frequently the task of punishing delinquents devolves upon the fiscal officer, whose province it is to receive the fine: thus the treasurer of the township is charged with the prosecution of such administrative offences as fall under his notice. But a more special appeal is made by American legislation to the private interest of the citizen;[30] and this great principle is constantly to be met with in studying the laws of the United States. American legislators are more apt to give men credit for intelligence than for honesty, and they rely not a little on personal cupidity for the execution of the laws. When an individual is really and sensibly injured by an administrative abuse, it is natural that his personal interest should induce him to prosecute. But if a legal formality be required, which, however advantageous to the community, is of small importance to individuals, plaintiffs may be less easily found; and thus, by a tacit agreement, the laws may fall into disuse. Reduced by their system to this extremity, the Americans are obliged to encourage informers by bestowing on them a portion of the penalty in certain cases,[31] and to insure the execution of the laws by the dangerous expedient of degrading the morals of the people. The only administrative authority above the county magistrates is, properly speaking, that of the Government.

I have already premised that, after having examined the constitution of the township and the county of New

England in detail, I should take a general view of the remainder of the Union. Townships and a local activity exist in every State; but in no part of the confederation is a township to be met with precisely similar to those of New England. The more we descend toward the South, the less active does the business of the township or parish become; the number of magistrates, of functions, and of rights decreases; the population exercises a less immediate influence on affairs; town-meetings are less frequent, and the subjects of debate less numerous. The power of the elected magistrate is augmented and that of the elector diminished, while the public spirit of the local communities is less awakened and less influential.[32] These differences may be perceived to a certain extent in the State of New York; they are very sensible in Pennsylvania; but they become less striking as we advance to the northwest. The majority of the emigrants who settle in the Northwestern States are natives of New England, and they carry the habits of their mother-country with them into that which they adopt. A township in Ohio is by no means dissimilar from a township in Massachusetts.

We have seen that in Massachusetts the mainspring of public administration lies in the township. It forms the common centre of the interests and affections of the citizens. But this ceases to be the case as we descend to States in which knowledge is less generally diffused, and where the township consequently offers fewer guarantees of a wise and active administration. As we leave New England, therefore, we find that the importance of the town is gradually transferred to the county, which becomes the centre of administration, and the intermediate power between the Government and the citizen. In Massachusetts the business of the county is conducted by the Court of Sessions, which is composed of a quorum named by the Governor and his council; but the county has no representative assembly, and its expenditure is voted by the national legislature. In the great State of New York, on the contrary, and in those of Ohio and Pennsylvania, the

inhabitants of each county choose a certain number of representatives, who constitute the assembly of the county.[33] The county assembly has the right of taxing the inhabitants to a certain extent; and in this respect it enjoys the privileges of a real legislative body: at the same time it exercises an executive power in the county, frequently directs the administration of the townships, and restricts their authority within much narrower bounds than in Massachusetts.

Such are the principal differences which the systems of county and town administration present in the Federal States. Were it my intention to examine the provisions of American law minutely, I should have to point out still further differences in the executive details of the several communities. But what I have already said may suffice to show the general principles on which the administration of the United States rests. These principles are differently applied; their consequences are more or less numerous in various localities; but they are always substantially the same. The laws differ, and their outward features change, but their character does not vary. If the township and the county are not everywhere constituted in the same manner, it is at least true that in the United States the county and the township are always based upon the same principle, namely, that every one is the best judge of what concerns himself alone, and the most proper person to supply his private wants. The township and the county are therefore bound to take care of their special interests: the State governs, but it does not interfere with their administration. Exceptions to this rule may be met with, but not a contrary principle.

The first consequence of this doctrine has been to cause all the magistrates to be chosen either by or at least from among the citizens. As the officers are everywhere elected or appointed for a certain period, it has been impossible to establish the rules of a dependent series of authorities; there are almost as many independent functionaries as there are functions, and the executive power is dissemi-

nated in a multitude of hands. Hence arose the indispensable necessity of introducing the control of the courts of justice over the administration, and the system of pecuniary penalties, by which the secondary bodies and their representatives are constrained to obey the laws. This system obtains from one end of the Union to the other. The power of punishing the misconduct of public officers, or of performing the part of the executive in urgent cases, has not, however, been bestowed on the same judges in all the States. The Anglo-Americans derived the institution of justices of the peace from a common source; but although it exists in all the States, it is not always turned to the same use. The justices of the peace everywhere participate in the administration of the townships and the counties,[34] either as public officers or as the judges of public misdemeanours, but in most of the States the more important classes of public offences come under the cognizance of the ordinary tribunals.

The election of public officers, or the inalienability of their functions, the absence of a gradation of powers, and the introduction of a judicial control over the secondary branches of the administration, are the universal characteristics of the American system from Maine to the Floridas. In some States (and that of New York has advanced most in this direction) traces of a centralized administration begin to be discernible. In the State of New York the officers of the central government exercise, in certain cases, a sort of inspection or control over the secondary bodies.[35]

At other times they constitute a court of appeal for the decision of affairs.[36] In the State of New York judicial penalties are less used than in other parts as a means of administration, and the right of prosecuting the offences of public officers is vested in fewer hands.[37] The same tendency is faintly observable in some other States;[38] but in general the prominent feature of administration in the United States is its excessive local independence.

I have described the townships and the administration;

it now remains for me to speak of the State and the Government. This is ground I may pass over rapidly, without fear of being misunderstood; for all I have to say is to be found in written forms of the various constitutions, which are easily to be procured. These constitutions rest upon a simple and rational theory; their forms have been adopted by all constitutional nations, and are become familiar to us. In this place, therefore, it is only necessary for me to give a short analysis; I shall endeavour afterward to pass judgment upon what I now describe.

The legislative power of the State is vested in two assemblies, the first of which generally bears the name of the Senate. The Senate is commonly a legislative body; but it sometimes becomes an executive and a judicial one. It takes a part in the government in several ways, according to the constitution of the different States;[39] but it is in the nomination of public functionaries that it most commonly assumes an executive power. It partakes of judicial power in the trial of certain political offences, and sometimes also in the decision of certain civil cases.[40] The number of its members is always small. The other branch of the legislature, which is usually called the House of Representatives, has no share whatever in the administration, and only takes a part in the judicial power inasmuch as it impeaches public functionaries before the Senate. The members of the two Houses are nearly everywhere subject to the same conditions of election. They are chosen in the same manner, and by the same citizens. The only difference which exists between them is, that the term for which the Senate is chosen is in general longer than that of the House of Representatives. The latter seldom remain in office longer than a year; the former usually sit two or three years. By granting to the senators the privilege of being chosen for several years, and being renewed seriatim, the law takes care to preserve in the legislative body a nucleus of men already accustomed to public business, and capable of exercising a salutary influence upon the junior members.

The Americans, plainly, did not desire, by this separation of the legislative body into two branches, to make one House hereditary and the other elective; one aristocratic and the other democratic. It was not their object to create in the one a bulwark to power, while the other represented the interests and passions of the people. The only advantages which result from the present Constitution of the United States are the division of the legislative power and the consequent check upon political assemblies; with the creation of a tribunal of appeal for the revision of the laws.

Time and experience, however, have convinced the Americans that if these are its only advantages, the division of the legislative power is still a principle of the greatest necessity. Pennsylvania was the only one of the United States which at first attempted to establish a single House of Assembly, and Franklin himself was so far carried away by the necessary consequences of the principle of the sovereignty of the people as to have concurred in the measure; but the Pennsylvanians were soon obliged to change the law, and to create two Houses. Thus the principle of the division of the legislative power was finally established, and its necessity may henceforward be regarded as a demonstrated truth. This theory, which was nearly unknown to the republics of antiquity—which was introduced into the world almost by accident, like so many other great truths—and misunderstood by several modern nations, is at length become an axiom in the political science of the present age.

The executive power of the State may with truth be said to be represented by the Governor, although he enjoys but a portion of its rights. The supreme magistrate, under the title of Governor, is the official moderator and counsellor of the legislature. He is armed with a veto or suspensive power, which allows him to stop, or at least to retard, its movements at pleasure. He lays the wants of the country before the legislative body, and points out the means which he thinks may be usefully employed in

providing for them; he is the natural executor of its decrees in all the undertakings which interest the nation at large.[41] In the absence of the legislature, the Governor is bound to take all necessary steps to guard the State against violent shocks and unforeseen dangers. The whole military power of the State is at the disposal of the Governor. He is the commander of the militia, and head of the armed force. When the authority, which is by general consent awarded to the laws, is disregarded, the Governor puts himself at the head of the armed force of the State, to quell resistance, and to restore order. Lastly, the Governor takes no share in the administration of townships and counties, except it be indirectly in the nomination of justices of the peace, which nomination he has not the power to cancel.[42] The Governor is an elected magistrate, and is generally chosen for one or two years only; so that he always continues to be strictly dependent upon the majority who returned him.

Centralization is become a word of general and daily use, without any precise meaning being attached to it. Nevertheless, there exist two distinct kinds of centralization, which it is necessary to discriminate with accuracy. Certain interests are common to all parts of a nation, such as the enactment of its general laws and the maintenance of its foreign relations. Other interests are peculiar to certain parts of the nation; such, for instance, as the business of different townships. When the power which directs the general interests is centred in one place, or vested in the same persons, it constitutes a central government. In like manner the power of directing partial or local interests, when brought together into one place, constitutes what may be termed a central administration.

Upon some points these two kinds of centralization coalesce; but by classifying the objects which fall more particularly within the province of each of them, they may easily be distinguished. It is evident that a central government acquires immense power when united to administrative centralization. Thus combined, it accustoms men

to set their own will habitually and completely aside; to submit, not only for once, or upon one point, but in every respect, and at all times. Not only, therefore, does this union of power subdue them compulsorily, but it affects them in the ordinary habits of life, and influences each individual, first separately and then collectively.

These two kinds of centralization mutually assist and attract each other; but they must not be supposed to be inseparable. It is impossible to imagine a more completely central government than that which existed in France under Louis XIV; when the same individual was the author and the interpreter of the laws, and the representative of France at home and abroad, he was justified in asserting that the State was identified with his person. Nevertheless, the administration was much less centralized under Louis XIV than it is at the present day.

In England the centralization of the government is carried to great perfection; the State has the compact vigour of a man, and by the sole act of its will it puts immense engines in motion, and wields or collects the efforts of its authority. Indeed, I can not conceive that a nation can enjoy a secure or prosperous existence without a powerful centralization of government. But I am of opinion that a central administration enervates the nations in which it exists by incessantly diminishing their public spirit. If such an administration succeeds in condensing at a given moment, on a given point, all the disposable resources of a people, it impairs at least the renewal of those resources. It may insure a victory in the hour of strife, but it gradually relaxes the sinews of strength. It may contribute admirably to the transient greatness of a man, but it can not insure the durable prosperity of a nation.

If we pay proper attention, we shall find that whenever it is said that a State can not act because it has no central point, it is the centralization of the government in which it is deficient. It is frequently asserted, and we are prepared to assent to the proposition, that the German Empire was never able to bring all its powers into action. But

the reason was, that the State was never able to enforce obedience to its general laws, because the several members of that great body always claimed the right, or found the means, of refusing their co-operation to the representatives of the common authority, even in the affairs which concerned the mass of the people; in other words, because there was no centralization of government. The same remark is applicable to the Middle Ages; the cause of all the confusion of feudal society was that the control, not only of local but of general interests, was divided among a thousand hands, and broken up in a thousand different ways; the absence of a central government prevented the nations of Europe from advancing with energy in any straightforward course.

We have shown that in the United States no central administration and no dependent series of public functionaries exist. Local authority has been carried to lengths which no European nation could endure without great inconvenience, and which has even produced some disadvantageous consequences in America. But in the United States the centralization of the Government is complete; and it would be easy to prove that the national power is more compact than it ever has been in the old nations of Europe. Not only is there but one legislative body in each State; not only does there exist but one source of political authority; but district assemblies and county courts have not in general been multiplied, lest they should be tempted to exceed their administrative duties, and interfere with the Government. In America the legislature of each State is supreme; nothing can impede its authority; neither privileges, nor local immunities, nor personal influence, nor even the empire of reason, since it represents that majority which claims to be the sole organ of reason. Its own determination is, therefore, the only limit to this action. In juxtaposition to it, and under its immediate control, is the representative of the executive power, whose duty it is to constrain the refractory to submit by superior force. The only symptom of weakness

lies in certain details of the action of the Government. The American republics have no standing armies to intimidate a discontented minority; but as no minority has as yet been reduced to declare open war, the necessity of an army has not been felt. The State usually employs the officers of the township or the county to deal with the citizens. Thus, for instance, in New England, the assessor fixes the rate of taxes; the collector receives them; the town-treasurer transmits the amount to the public treasury; and the disputes which may arise are brought before the ordinary courts of justice. This method of collecting taxes is slow as well as inconvenient, and it would prove a perpetual hindrance to a Government whose pecuniary demands were large. It is desirable that, in whatever materially affects its existence, the Government should be served by officers of its own, appointed by itself, removable at pleasure, and accustomed to rapid methods of proceeding. But it will always be easy for the central government, organized as it is in America, to introduce new and more efficacious modes of action, proportioned to its wants.

The absence of a central government will not, then, as has often been asserted, prove the destruction of the republics of the New World; far from supposing that the American governments are not sufficiently centralized, I shall prove hereafter that they are too much so. The legislative bodies daily encroach upon the authority of the Government, and their tendency, like that of the French Convention, is to appropriate it entirely to themselves. Under these circumstances the social power is constantly changing hands, because it is subordinate to the power of the people, which is too apt to forget the maxims of wisdom and of foresight in the consciousness of its strength: hence arises its danger; and thus its vigour, and not its impotence, will probably be the cause of its ultimate destruction.

The system of local administration produces several different effects in America. The Americans seem to me

to have outstepped the limits of sound policy in isolating the administration of the Government; for order, even in second-rate affairs, is a matter of national importance.[43] As the State has no administrative functionaries of its own, stationed at different points of its territory, to whom it can give a common impulse, the consequence is that it rarely attempts to issue any general police regulations. The want of these regulations is severely felt, and is frequently observed by Europeans. The appearance of disorder which prevails on the surface leads him at first to imagine that society is in a state of anarchy; nor does he perceive his mistake till he has gone deeper into the subject. Certain undertakings are of importance to the whole State; but they can not be put in execution, because there is no national administration to direct them. Abandoned to the exertions of the towns or counties, under the care of elected or temporary agents, they lead to no result, or at least to no durable benefit.

The partisans of centralization in Europe are wont to maintain that the Government directs the affairs of each locality better than the citizens could do it for themselves; this may be true when the central power is enlightened, and when the local districts are ignorant; when it is as alert as they are slow; when it is accustomed to act, and they to obey. Indeed, it is evident that this double tendency must augment with the increase of centralization, and that the readiness of the one and the incapacity of the others must become more and more prominent. But I deny that such is the case when the people is as enlightened, as awake to its interests, and as accustomed to reflect on them, as the Americans are. I am persuaded, on the contrary, that in this case the collective strength of the citizens will always conduce more efficaciously to the public welfare than the authority of the Government. It is difficult to point out with certainty the means of arousing a sleeping population, and of giving it passions and knowledge which it does not possess; it is, I am well aware, an arduous task to persuade men to busy themselves about

their own affairs; and it would frequently be easier to interest them in the punctilios of court etiquette than in the repairs of their common dwelling. But whenever a central administration affects to supersede the persons most interested, I am inclined to suppose that it is either misled or desirous to mislead. However enlightened and however skilful a central power may be, it can not of itself embrace all the details of the existence of a great nation. Such vigilance exceeds the powers of man. And when it attempts to create and set in motion so many complicated springs, it must submit to a very imperfect result, or consume itself in bootless efforts.

Centralization succeeds more easily, indeed, in subjecting the external actions of men to a certain uniformity, which at last commands our regard, independently of the objects to which it is applied, like those devotees who worship the statue and forget the deity it represents. Centralization imparts without difficulty an admirable regularity to the routine of business; provides for the details of the social police with sagacity; represses the smallest disorder and the most petty misdemeanours; maintains society in a statu quo alike secure from improvement and decline; and perpetuates a drowsy precision in the conduct of affairs, which is hailed by the heads of the administration as a sign of perfect order and public tranquility:[44] in short, it excels more in prevention than in action. Its force deserts it when society is to be disturbed or accelerated in its course; and if once the co-operation of private citizens is necessary to the furtherance of its measures, the secret of its impotence is disclosed. Even while it invokes their assistance, it is on the condition that they shall act exactly as much as the Government chooses, and exactly in the manner it appoints. They are to take charge of the details, without aspiring to guide the system; they are to work in a dark and subordinate sphere, and only to judge the acts in which they have themselves co-operated by their results. These, however, are not conditions on which the alliance of the human will is to be obtained;

its carriage must be free and its actions responsible, or (such is the constitution of man) the citizen would rather remain a passive spectator than be a dependent actor in schemes with which he is unacquainted.

It is undeniable that the want of those uniform regulations which control the conduct of every inhabitant of France is not infrequently felt in the United States. Gross instances of social indifference and neglect are to be met with, and from time to time disgraceful blemishes are seen in complete contrast with the surrounding civilization. Useful undertakings which can not succeed without perpetual attention and rigorous exactitude are very frequently abandoned in the end; for in America, as well as in other countries, the people is subject to sudden impulses and momentary exertions. The European who is accustomed to find a functionary always at hand to interfere with all he undertakes has some difficulty in accustoming himself to the complex mechanism of the administration of the townships. In general it may be affirmed that the lesser details of the police, which render life easy and comfortable, are neglected in America; but that the essential guarantees of man in society are as strong there as elsewhere. In America the power which conducts the Government is far less regular, less enlightened, and less learned, but a hundredfold more authoritative than in Europe. In no country in the world do the citizens make such exertions for the common weal; and I am acquainted with no people which has established schools as numerous and as efficacious, places of public worship better suited to the wants of the inhabitants, or roads kept in better repair. Uniformity or permanence of design, the minute arrangement of details,[45] and the perfection of an ingenious administration, must not be sought for in the United States; but it will be easy to find, on the other hand, the symptoms of a power which, if it is somewhat barbarous, is at least robust; and of an existence which is checkered with accidents indeed, but cheered at the same time by animation and effort.

Granting for an instant that the villages and counties of the United States would be more usefully governed by a remote authority which they had never seen than by functionaries taken from the midst of them—admitting, for the sake of argument, that the country would be more secure, and the resources of society better employed, if the whole administration centred in a single arm—still the political advantages which the Americans derive from their system would induce me to prefer it to the contrary plan. It profits me but little, after all, that a vigilant authority should protect the tranquility of my pleasures and constantly avert all dangers from my path, without my care or my concern, if this same authority is the absolute mistress of my liberty and of my life, and if it so monopolizes all the energy of existence that when it languishes everything languishes around it, that when it sleeps everything must sleep, that when it dies the State itself must perish.

In certain countries of Europe the natives consider themselves as a kind of settlers, indifferent to the fate of the spot upon which they live. The greatest changes are effected without their concurrence and (unless chance may have apprised them of the event) without their knowledge; nay more, the citizen is unconcerned as to the condition of his village, the police of his street, the repairs of the church or of the parsonage; for he looks upon all these things as unconnected with himself, and as the property of a powerful stranger whom he calls the Government. He has only a life-interest in these possessions, and he entertains no notions of ownership or of government. This want of interest in his own affairs goes so far that, if his own safety or that of his children is endangered, instead of trying to avert the peril, he will fold his arms, and wait till the nation comes to his assistance. This same individual, who has so completely sacrificed his own free will, has no natural propensity to obedience; he cowers, it is true, before the pettiest officer; but he braves the law with the spirit of a conquered foe as soon as its superior force is removed:

his oscillations between servitude and license are perpetual. When a nation has arrived at this state it must either change its customs and its laws or perish; the source of public virtue is dry, and, though it may contain subjects, the race of citizens is extinct. Such communities are a natural prey to foreign conquests, and if they do not disappear from the scene of life, it is because they are surrounded by other nations similar or inferior to themselves: it is because the instinctive feeling of their country's claims still exists in their hearts; and because an involuntary pride in the name it bears, or a vague reminiscence of its bygone fame, suffices to give them the impulse of self-preservation.

Nor can the prodigious exertions made by tribes in the defence of a country to which they did not belong be adduced in favour of such a system; for it will be found that in these cases their main incitement was religion. The permanence, the glory, or the prosperity of the nation were become parts of their faith, and in defending the country they inhabited they defended that Holy City of which they were all citizens. The Turkish tribes have never taken an active share in the conduct of the affairs of society, but they accomplished stupendous enterprises as long as the victories of the Sultan were the triumphs of the Mohammedan faith. In the present age they are in rapid decay, because their religion is departing, and despotism only remains. Montesquieu, who attributed to absolute power an authority peculiar to itself, did it, as I conceive, an undeserved honour; for despotism, taken by itself, can produce no durable results. On close inspection we shall find that religion, and not fear, ever has been the cause of the long-lived prosperity of an absolute government. Whatever exertions may be made, no true power can be founded among men which does not depend upon the free union of their inclinations; and patriotism and religion are the only two motives in the world which can permanently direct the whole of a body politic to one end.

Laws can not succeed in rekindling the ardour of an extinguished faith, but men may be interested in the fate of their country by the laws. By this influence the vague impulse of patriotism, which never abandons the human heart, may be directed and revived; and if it be connected with the thoughts, the passions, and the daily habits of life, it may be consolidated into a durable and rational sentiment. Let it not be said that the time for the experiment is already past; for the old age of nations is not like the old age of men, and every fresh generation is a new people ready for the care of the legislator.

It is not the administrative but the political effects of the local system that I most admire in America. In the United States the interests of the country are everywhere kept in view; they are an object of solicitude to the people of the whole Union, and every citizen is as warmly attached to them as if they were his own. He takes pride in the glory of his nation; he boasts of its success, to which he conceives himself to have contributed, and he rejoices in the general prosperity by which he profits. The feeling he entertains toward the State is analogous to that which unites him to his family, and it is by a kind of egotism that he interests himself in the welfare of his country.

The European generally submits to a public officer because he represents a superior force; but to an American he represents a right. In America it may be said that no one renders obedience to man, but to justice and to law. If the opinion which the citizen entertains of himself is exaggerated, it is at least salutary; he unhesitatingly confides in his own powers, which appear to him to be all-sufficient. When a private individual meditates an undertaking, however directly connected it may be with the welfare of society, he never thinks of soliciting the co-operation of the Government, but he publishes his plan, offers to execute it himself, courts the assistance of other individuals, and struggles manfully against all obstacles. Undoubtedly he is often less successful than the State might have been in his position; but in the end the sum

of these private undertakings far exceeds all that the Government could have done.

As the administrative authority is within the reach of the citizens, whom it in some degree represents, it excites neither their jealousy nor their hatred; as its resources are limited, every one feels that he must not rely solely on its assistance. Thus, when the administration thinks fit to interfere, it is not abandoned to itself as in Europe; the duties of the private citizens are not supposed to have lapsed because the State assists in their fulfilment, but every one is ready, on the contrary, to guide and to support it. This action of individual exertions, joined to that of the public authorities, frequently performs what the most energetic central administration would be unable to execute. It would be easy to adduce several facts in proof of what I advance, but I prefer to give only one, with which I am more thoroughly acquainted.[46] In America the means which the authorities have at their disposal for the discovery of crimes and the arrest of criminals are few. The State police does not exist, and passports are unknown. The criminal police of the United States can not be compared to that of France; the magistrates and public prosecutors are not numerous, and the examinations of prisoners are rapid and oral. Nevertheless in no country does crime more rarely elude punishment. The reason is, that every one conceives himself to be interested in furnishing evidence of the act committed, and in stopping the delinquent. During my stay in the United States I witnessed the spontaneous formation of committees for the pursuit and prosecution of a man who had committed a great crime in a certain county. In Europe a criminal is an unhappy being who is struggling for his life against the ministers of justice, while the population is merely a spectator of the conflict; in America he is looked upon as an enemy of the human race, and the whole of mankind is against him.

I believe that provincial institutions are useful to all nations, but nowhere do they appear to me to be more

indispensable than among a democratic people. In an aristocracy order can always be maintained in the midst of liberty, and as the rulers have a great deal to lose, order is to them a first-rate consideration. In like manner an aristocracy protects the people from the excesses of despotism, because it always possesses an organized power ready to resist a despot. But a democracy without provincial institutions has no security against these evils. How can a populace, unaccustomed to freedom in small concerns, learn to use it temperately in great affairs? What resistance can be afforded to tyranny in a country where every private individual is impotent, and where the citizens are united by no common tie? Those who dread the license of the mob, and those who fear the rule of absolute power, ought alike to desire the progressive growth of provincial liberties.

On the other hand, I am convinced that democratic nations are most exposed to fall beneath the yoke of a central administration, for several reasons, among which is the following: The constant tendency of these nations is to concentrate all the strength of the Government in the hands of the only power which directly represents the people, because beyond the people nothing is to be perceived but a mass of equal individuals confounded together. But when the same power is already in possession of all the attributes of the Government, it can scarcely refrain from penetrating into the details of the administration, and an opportunity of doing so is sure to present itself in the end, as was the case in France. In the French Revolution there were two impulses in opposite directions, which must never be confounded—the one was favourable to liberty, the other to despotism. Under the ancient monarchy the King was the sole author of the laws, and below the power of the sovereign certain vestiges of provincial institutions, half destroyed, were still distinguishable. These provincial institutions were incoherent, ill compacted, and frequently absurd; in the hands of the aristocracy they had sometimes been converted into

instruments of oppression. The Revolution declared itself the enemy of royalty and of provincial institutions at the same time; it confounded all that had preceded it—despotic power and the checks to its abuses—in indiscriminate hatred, and its tendency was at once to overthrow and to centralize. This double character of the French Revolution is a fact which has been adroitly handled by the friends of absolute power. Can they be accused of labouring in the cause of despotism when they are defending that central administration which was one of the great innovations of the Revolution? [47] In this manner popularity may be conciliated with hostility to the rights of the people, and the secret slave of tyranny may be the professed admirer of freedom.

I have visited the two nations in which the system of provincial liberty has been most perfectly established, and I have listened to the opinions of different parties in those countries. In America I met with men who secretly aspired to destroy the democratic institutions of the Union; in England I found others who attacked the aristocracy openly, but I know of no one who does not regard provincial independence as a great benefit. In both countries I have heard a thousand different causes assigned for the evils of the State, but the local system was never mentioned among them. I have heard citizens attribute the power and prosperity of their country to a multitude of reasons, but they all placed the advantages of local institutions in the foremost rank. Am I to suppose that when men who are naturally so divided on religious opinions and on political theories agree on one point (and that one in which they have daily experience), they are all in error? The only nations which deny the utility of provincial liberties are those which have fewest of them; in other words, those who are unacquainted with the institution are the only persons who pass a censure upon it.

Notes

[1] In 1830 there were 305 townships in the State of Massachusetts, and 610,014 inhabitants, which gives an average of about 2,000 inhabitants to each township.

[2] The same rules are not applicable to the great towns, which generally have a mayor, and a corporation divided into two bodies; this, however, is an exception which requires the sanction of a law.—See the Act of February 22, 1822, for appointing the authorities of the city of Boston. It frequently happens that small towns as well as cities are subject to a peculiar administration. In 1832, 104 townships in the State of New York were governed in this manner.—Williams's Register.

[3] Three selectmen are appointed in the small townships, and nine in the large ones.—See "The Town Officer," p. 186. See also the principal laws of the State of Massachusetts relative to the selectmen:

Act of February 20, 1786, vol. i, p. 219; February 24, 1796, vol. i, p. 488; March 7, 1801, vol. ii, p. 45; June 16, 1795, vol. i, p. 475; March 12, 1808, vol. ii, p. 186; February 28, 1787, vol. i, p. 302; June 22, 1797, vol. i, p. 539.

[4] See "Laws of Massachusetts," vol. i, p. 150, Act of the 25th March, 1786.

[5] All these magistrates actually exist; their different functions are all detailed in a book called "The Town Officer," by Isaac Goodwin, Worcester, 1827; and in the "Collection of the General Laws of Massachusetts," 3 vols., Boston, 1823.

[6] See the Act of February 14, 1821, "Laws of Massachusetts," vol. i, p. 551.

[7] See the Act of February 20, 1819, "Laws of Massachusetts," vol. ii, p. 494.

[8] The council of the Governor is an elective body.

[9] See "The Town Officer," especially at the words Selectmen, Assessors, Collectors, Schools, Surveyors of Highways. I take one example in a thousand: the State prohibits travelling on the Sunday; the tithing-men, who are town-officers, are specially charged to keep watch and to execute the law. See the "Laws of Massachusetts," vol. i, p. 410.

The selectmen draw up the lists of electors for the election of the Governor, and transmit the result of the ballot to the Secretary of State. See Act of February 24, 1796; Id., vol. i, p. 488.

[10] Thus, for instance, the selectmen authorize the construction of drains, point out the proper sites for slaughter-houses and other trades which are a nuisance to the neighbourhood. See the Act of June 7, 1785; Id., vol. i, p. 193.

[11] The selectmen take measures for the security of the public in case of contagious diseases, conjointly with the justices of the peace. See Act of June 22, 1797, vol. i, p. 539.

[12] I say almost, for there are various circumstances in the annals of a township which are regulated by the justice of the peace in his individual capacity, or by the justices of the peace assembled in the chief town of the county; thus licenses are granted by the justices. See the Act of February 28, 1787, vol. i, p. 297.

[13] Thus licenses are only granted to such persons as can produce a certificate of good conduct from the selectmen. If the selectmen refuse to give the certificate the party may appeal to the justices assembled in the Court of Sessions, and they may grant the license. See Act of March 12, 1808, vol. ii, p. 186.

The townships have the right to make by-laws, and to enforce them by fines which are fixed by law; but these by-laws must be approved by the Court of Sessions. See Act of March 23, 1786, vol. i, p. 254.

[14] In Massachusetts the county magistrates are frequently called upon to investigate the acts of the town magistrates; but it will be shown further on that this investigation is a consequence, not of their administrative, but of their judicial power.

[15] The town committees of schools are obliged to make an annual report to the Secretary of the State on the condition of the schools. See Act of March 10, 1827, vol. iii, p. 183.

[16] We shall hereafter learn what a Governor is: I shall content myself with remarking in this place that he represents the executive power of the whole State.

[17] See the "Constitution of Massachusetts," chap. ii, sec. I, § 9; chap. iii, § 3.

[18] Thus, for example, a stranger arrives in a township from a country where a contagious disease prevails, and he falls ill. The justices of the peace can, with the assent of the selectmen, order the sheriff of the county to remove and take care of him.—Act of June 22, 1797, vol. i, p. 540.

In general the justices interfere in all the important acts of the administration, and give them a semi-judicial character.

[19] I say the greater number, because certain administrative misdemeanours are brought before ordinary tribunals. If, for instance, a township refuses to make the necessary expenditure for its schools or to name a school-committee, it is liable to a heavy fine. But this penalty is pronounced by the Supreme Judicial Court or the Court of Common Pleas. See Act of March 10, 1827, "Laws of Massachusetts," vol. iii, p. 190. Or when a township neglects to provide the necessary war-stores.—Act of February 21, 1822; Id., vol. ii, p. 570.

[20] In their individual capacity the justices of the peace take a part in the business of the counties and townships.

[21] These affairs may be brought under the following heads: 1. The erection of prisons and courts of justice. 2. The county budget, which is afterward voted by the State. 3. The distribution of the taxes so voted. 4. Grants of certain patents. 5. The laying down and repairs of the country roads.

[22] Thus, when a road is under consideration, almost all difficulties are disposed of by the aid of the jury.

[23] See Act of February 20, 1786, "Laws of Massachusetts," vol. i, p. 217.

[24] There is an indirect method of enforcing the obedience of a township. Suppose that the funds which the law demands for the maintenance of the roads have not been voted, the town surveyor is then authorized, ex officio, to levy the supplies. As he is personally responsible to

private individuals for the state of the roads, and indictable before the Court of Sessions, he is sure to employ the extraordinary right which the law gives him against the township. Thus by threatening the officer the Court of Sessions exacts compliance from the town. See Act of March 5, 1787; Id., vol. i, p. 305.

[25] "Laws of Massachusetts," vol. ii, p. 45.

[26] If, for instance, a township persists in refusing to name its assessors, the Court of Sessions nominates them; and the magistrates thus appointed are invested with the same authority as elected officers. See the Act quoted above, February 20, 1787.

[27] I say the Court of Sessions, because in common courts there is a magistrate who exercises some of the functions of a public prosecutor.

[28] The grand-jurors are, for instance, bound to inform the court of the bad state of the roads.—"Laws of Massachusetts," vol. i, p. 308.

[29] If, for instance, the treasurer of the county holds back his accounts. "Laws of Massachusetts," vol. i, p. 406.

[30] Thus, if a private individual breaks down or is wounded in consequence of the badness of a road, he can sue the township or the county for damages at the sessions.—"Laws of Massachusetts," vol. i, p. 309.

[31] In cases of invasion or insurrection, if the town-officers neglect to furnish the necessary stores and ammunition for the militia, the township may be condemned to a fine of from 200 to 500 dollars. It may readily be imagined that in such a case it might happen that no one cared to prosecute; hence the law adds that all the citizens may indict offences of this kind, and that half the fine shall belong to the plaintiff. See Act of 6th March, 1810, vol. ii, p. 236. The same clause is frequently to be met with in the "Laws of Massachusetts." Not only are private individuals thus incited to prosecute the public officers, but the public officers are encouraged in the same manner to bring the disobedience of private individuals to justice. If a citizen refuses to perform the work which has been assigned to him upon a road, the road-surveyor may prosecute him, and he receives half the penalty for himself. See the Laws above quoted, vol. i, p. 308.

[32] For details see the "Revised Statutes of the State of New York," part i, chap. xi, vol. i, pp. 336–364, entitled "Of the Powers, Duties, and Privileges of Towns."

See in the "Digest of the Laws of Pennsylvania" the words ASSESSORS, COLLECTOR, CONSTABLES, OVERSEER OF THE POOR, SUPERVISORS OF HIGHWAYS; and in the Acts of a general nature of the State of Ohio, the Act of the 25th of February, 1834, relating to townships, p. 412; besides the peculiar dispositions relating to divers town-officers, such as Township's Clerk, Trustees, Overseers of the Poor, Fence-Viewers, Appraisers of Property, Township's Treasurer, Constables, Supervisors of Highways.

[33] See the "Revised Statutes of the State of New York," part i, chap. xi, vol. i, p. 340; Id., chap. xii, p. 366; also in the "Acts of the State of Ohio," an act relating to county commissioners, February 25, 1824, p. 263. See the "Digest of the Laws of Pennsylvania" at the words COUNTY-RATES and LEVIES, p. 170.

In the State of New York each township elects a representative, who

has a share in the administration of the county as well as in that of the township.

[34] In some of the Southern States the county courts are charged with all the details of the administration. See the "Statutes of the State of Tennessee," articles on JUDICIARY, TAXES, etc.

[35] For instance, the direction of public instruction centres in the hands of the Government. The legislature names the members of the University, who are denominated Regents; the Governor and Lieutenant-Governor of the State are necessarily of the number.—"Revised Statutes," vol. i, p. 455. The Regents of the University annually visit the colleges and academies, and make their report to the legislature. Their superintendence is not inefficient, for several reasons: the colleges in order to become corporations stand in need of a charter, which is only granted on the recommendation of the Regents; every year funds are distributed by the State for the encouragement of learning, and the Regents are the distributors of this money. See chap. xv, "Public Instruction," "Revised Statutes," vol. i, p. 455.

The school-commissioners are obliged to send an annual report to the Superintendent of the Republic.—Id., p. 488.

A similar report is annually made to the same person on the number and condition of the poor.—Id., p. 631.

[36] If any one conceives himself to be wronged by the school-commissioners (who are town-officers), he can appeal to the superintendent of the primary schools, whose decision is final.—"Revised Statutes," vol. i, p. 487.

Provisions similar to those above cited are to be met with from time to time in the laws of the State of New York; but in general these attempts at centralization are weak and unproductive. The great authorities of the State have the right of watching and controlling the subordinate agents, without that of rewarding or punishing them. The same individual is never empowered to give an order and to punish disobedience; he has therefore the right of commanding without the means of exacting compliance. In 1830 the Superintendent of Schools complained in his "Annual Report" addressed to the legislature that several school-commissioners had neglected, notwithstanding his application, to furnish him with the accounts which were due. He added that if this omission continued he should be obliged to prosecute them, as the law directs, before the proper tribunals.

[37] Thus the district-attorney is directed to recover all fines below the sum of fifty dollars, unless such a right has been specially awarded to another magistrate.—"Revised Statutes," vol. i, p. 383.

[38] Several traces of centralization may be discovered in Massachusetts; for instance, the committees of the town-schools are directed to make an annual report to the Secretary of State. See "Laws of Massachusetts," vol. i, p. 367.

[39] In Massachusetts the Senate is not invested with any administrative functions.

[40] As in the State of New York.

[41] Practically speaking, it is not always the Governor who executes the plans of the legislature; it often happens that the latter, in voting a measure, names special agents to superintend the execution of it.

[43] In some of the States the justices of the peace are not elected by the Governor.

[43] The authority which represents the State ought not, I think, to waive the right of inspecting the local administration, even when it does not interfere more actively. Suppose, for instance, that an agent of the Government was stationed at some appointed spot in the county, to prosecute the misdemeanours of the town and county officers, would not a more uniform order be the result, without in any way compromising the independence of the township? Nothing of the kind, however, exists in America: there is nothing above the county-courts which have, as it were, only an incidental cognizance of the offences they are meant to repress.

[44] China appears to me to present the most perfect instance of that species of well-being which a completely central administration may furnish to the nations among which it exists. Travellers assure us that the Chinese have peace without happiness, industry without improvement, stability without strength, and public order without public morality. The condition of society is always tolerable, never excellent. I am convinced that, when China is opened to European observation, it will be found to contain the most perfect model of a central administration which exists in the universe.

[45] A talented writer, who, in the comparison which he has drawn between the finances of France and those of the United States, has proved that ingenuity can not always supply the place of a knowledge of facts, very justly reproaches the Americans for the sort of confusion which exists in the accounts of the expenditure in the townships; and after giving the model of a Departmental Budget in France, he adds: "We are indebted to centralization, that admirable invention of a great man, for the uniform order and method which prevails alike in all the municipal budgets, from the largest town to the humblest commune." Whatever may be my admiration of this result, when I see the communes of France, with their excellent system of accounts, plunged into the grossest ignorance of their true interests, and abandoned to so incorrigible an apathy that they seem to vegetate rather than to live; when, on the other hand, I observe the activity, the information, and the spirit of enterprise which keep society in perpetual labour, in those American townships whose budgets are drawn up with small method and with still less uniformity, I am struck by the spectacle; for to my mind the end of a good government is to insure the welfare of a people, and not to establish order and regularity in the midst of its misery and its distress. I am therefore led to suppose that the prosperity of the American townships and the apparent confusion of their accounts, the distress of the French communes and the perfection of their budget, may be attributable to the same cause. At any rate I am suspicious of a benefit which is united to so many evils, and I am not averse to an evil which is compensated by so many benefits.

[46] See Appendix, I.

[47] See Appendix, K.

CHAPTER VI

JUDICIAL POWER IN THE UNITED STATES, AND ITS INFLUENCE UPON POLITICAL SOCIETY

The Anglo-Americans have retained the characteristics of judicial power which are common to all nations—They have, however, made it a powerful political organ—How—In what the judicial system of the Anglo-Americans differs from that of all other nations—Why the American judges have the right of declaring the laws to be unconstitutional—How they use this right—Precautions taken by the legislator to prevent its abuse—Other powers granted to American judges.

I HAVE thought it essential to devote a separate chapter to the judicial authorities of the United States, lest their great political importance should be lessened in the reader's eyes by a merely incidental mention of them. Confederations have existed in other countries besides America, and republics have not been established upon the shores of the New World alone; the representative system of government has been adopted in several States of Europe, but I am not aware that any nation of the globe has hitherto organized a judicial power on the principle now adopted by the Americans. The judicial organization of the United States is the institution which a stranger has the greatest difficulty in understanding. He hears the authority of a judge invoked in the political occurrences of every day, and he naturally concludes that in the United States the judges are important political functionaries; nevertheless, when he examines the nature of the tribunals, they offer nothing which is contrary to the usual habits and privileges of those bodies, and the magistrates seem to him to interfere in public affairs by chance, but by a chance which recurs every day.

When the Parliament of Paris remonstrated, or refused to enregister an edict, or when it summoned a functionary accused of malversation to its bar, its political influence as a judicial body was clearly visible; but nothing of the kind is to be seen in the United States. The Americans have retained all the ordinary characteristics of judicial authority, and have carefully restricted its action to the ordinary circle of its functions.

The first characteristic of judicial power in all nations is the duty of arbitration. But rights must be contested in order to warrant the interference of a tribunal; and an action must be brought to obtain the decision of a judge. As long, therefore, as a law is uncontested, the judicial authority is not called upon to discuss it, and it may exist without being perceived. When a judge in a given case attacks a law relating to that case, he extends the circle of his customary duties, without however stepping beyond it; since he is in some measure obliged to decide upon the law in order to decide the case. But if he pronounces upon a law without resting upon a case, he clearly steps beyond his sphere, and invades that of the legislative authority.

The second characteristic of judicial power is that it pronounces on special cases, and not upon general principles. If a judge in deciding a particular point destroys a general principle, by passing a judgment which tends to reject all the inferences from that principle, and consequently to annul it, he remains within the ordinary limits of his functions. But if he directly attacks a general principle without having a particular case in view, he leaves the circle in which all nations have agreed to confine his authority, he assumes a more important, and perhaps a more useful, influence than that of the magistrate, but he ceases to be a representative of the judicial power.

The third characteristic of judicial power is its inability to act unless it is appealed to, or until it has taken cognizance of an affair. This characteristic is less general than the other two; but, notwithstanding the exceptions,

I think it may be regarded as essential. The judicial power is by its nature devoid of action; it must be put in motion in order to produce a result. When it is called upon to repress a crime, it punishes the criminal; when a wrong is to be redressed, it is ready to redress it; when an act requires interpretation, it is prepared to interpret it; but it does not pursue criminals, hunt out wrongs, or examine into evidence of its own accord. A judicial functionary who should open proceedings, and usurp the censureship of the laws, would in some measure do violence to the passive nature of his authority.

The Americans have retained these three distinguishing characteristics of judicial power: an American judge can only pronounce a decision when litigation has arisen, he is only conversant with special cases, and he can not act until the cause has been duly brought before the court. His position is therefore perfectly similar to that of the magistrate of other nations; and he is nevertheless invested with immense political power. If the sphere of his authority and his means of action are the same as those of other judges, it may be asked whence he derives a power which they do not possess. The cause of this difference lies in the simple fact that the Americans have acknowledged the right of the judges to found their decisions on the constitution rather than on the laws. In other words, they have left them at liberty not to apply such laws as may appear to them to be unconstitutional.

I am aware that a similar right has been claimed—but claimed in vain—by courts of justice in other countries; but in America it is recognised by all the authorities; and not a party, nor so much as an individual, is found to contest it. This fact can only be explained by the principles of the American constitutions. In France the constitution is (or at least is supposed to be) immutable; and the received theory is that no power has the right of changing any part of it. In England the Parliament has an acknowledged right to modify the constitution; as, therefore, the constitution may undergo perpetual changes, it does not

in reality exist; the Parliament is at once a legislative and a constituent assembly. The political theories of America are more simple and more rational. An American constitution is not supposed to be immutable as in France, nor is it susceptible of modification by the ordinary powers of society as in England. It constitutes a detached whole, which, as it represents the determination of the whole people, is no less binding on the legislator than on the private citizen, but which may be altered by the will of the people in predetermined cases, according to established rules. In America the constitution may therefore vary, but as long as it exists it is the origin of all authority, and the sole vehicle of the predominating force.

It is easy to perceive in what manner these differences must act upon the position and the rights of the judicial bodies in the three countries I have cited. If in France the tribunals were authorized to disobey the laws on the ground of their being opposed to the constitution, the supreme power would in fact be placed in their hands, since they alone would have the right of interpreting a constitution, the clauses of which can be modified by no authority. They would therefore take the place of the nation, and exercise as absolute a sway over society as the inherent weakness of judicial power would allow them to do. Undoubtedly, as the French judges are incompetent to declare a law to be unconstitutional, the power of changing the constitution is indirectly given to the legislative body, since no legal barrier would oppose the alterations which it might prescribe. But it is better to grant the power of changing the constitution of the people to men who represent (however imperfectly) the will of the people, than to men who represent no one but themselves.

It would be still more unreasonable to invest the English judges with the right of resisting the decisions of the legislative body, since the Parliament which makes the laws also makes the constitution; and consequently a law emanating from the three powers of the State can in no

case be unconstitutional. But neither of these remarks is applicable to America.

In the United States the constitution governs the legislator as much as the private citizen; as it is the first of laws it can not be modified by a law, and it is therefore just that the tribunals should obey the constitution in preference to any law. This condition is essential to the power of the judicature, for to select that legal obligation by which he is most strictly bound is the natural right of every magistrate.

In France the constitution is also the first of laws, and the judges have the same right to take it as the ground of their decisions, but were they to exercise this right they must perforce encroach on rights more sacred than their own, namely, on those of society, in whose name they are acting. In this case the State-motive clearly prevails over the motives of an individual. In America, where the nation can always reduce its magistrates to obedience by changing its constitution, no danger of this kind is to be feared. Upon this point, therefore, the political and the logical reasons agree, and the people as well as the judges preserve their privileges.

Whenever a law which the judge holds to be unconstitutional is argued in a tribunal of the United States he may refuse to admit it as a rule; this power is the only one which is peculiar to the American magistrate, but it gives rise to immense political influence. Few laws can escape the searching analysis of the judicial power for any length of time, for there are few which are not prejudicial to some private interest or other, and none which may not be brought before a court of justice by the choice of parties, or by the necessity of the case. But from the time that a judge has refused to apply any given law in a case, that law loses a portion of its moral cogency. The persons to whose interests it is prejudicial learn that means exist of evading its authority, and similar suits are multiplied, until it becomes powerless. One of two alternatives must then be resorted to: the people must alter the con-

stitution, or the legislature must repeal the law. The political power which the Americans have intrusted to their courts of justice is therefore immense, but the evils of this power are considerably diminished by the obligation which has been imposed of attacking the laws through the courts of justice alone. If the judge had been empowered to contest the laws on the ground of theoretical generalities, if he had been enabled to open an attack or to pass a censure on the legislator, he would have played a prominent part in the political sphere; and as the champion or the antagonist of a party, he would have arrayed the hostile passions of the nation in the conflict. But when a judge contests a law applied to some particular case in an obscure proceeding, the importance of his attack is concealed from the public gaze, his decision bears upon the interest of an individual, and if the law is slighted it is only collaterally. Moreover, although it is censured, it is not abolished; its moral force may be diminished, but its cogency is by no means suspended, and its final destruction can only be accomplished by the reiterated attacks of judicial functionaries. It readily will be understood that by connecting the censorship of the laws with the private interests of members of the community, and by intimately uniting the prosecution of the law with the prosecution of an individual, legislation is protected from wanton assailants, and from the daily aggressions of party-spirit. The errors of the legislator are exposed whenever their evil consequences are most felt, and it is always a positive and appreciable fact which serves as the basis of a prosecution.

I am inclined to believe this practice of the American courts to be at once the most favourable to liberty as well as to public order. If the judge could only attack the legislator openly and directly, he would sometimes be afraid to oppose any resistance to his will; and at other moments party-spirit might encourage him to brave it at every turn. The laws would consequently be attacked when the power from which they emanate is weak, and obeyed when it is strong. That is to say, when it would

be useful to respect them they would be contested, and when it would be easy to convert them into an instrument of oppression they would be respected. But the American judge is brought into the political arena independently of his own will. He only judges the law because he is obliged to judge a case. The political question which he is called upon to resolve is connected with the interest of the suitors, and he can not refuse to decide it without abdicating the duties of his post. He performs his functions as a citizen by fulfilling the precise duties which belong to his profession as a magistrate. It is true that upon this system the judicial censorship which is exercised by the courts of justice over the legislation can not extend to all laws indistinctly, inasmuch as some of them can never give rise to that exact species of contestation which is termed a lawsuit; and even when such a contestation is possible, it may happen that no one cares to bring it before a court of justice. The Americans often have felt this disadvantage, but they have left the remedy incomplete, lest they should give it an efficacy which might in some cases prove dangerous. Within these limits the power vested in the American courts of justice of pronouncing a statute to be unconstitutional forms one of the most powerful barriers which has ever been devised against the tyranny of political assemblies.

It is perfectly natural that in a free country like America all the citizens should have the right of indicting public functionaries before the ordinary tribunals, and that all the judges should have the power of punishing public offences. The right granted to the courts of justice of judging the agents of the executive government, when they have violated the laws, is so natural a one that it can not be looked upon as an extraordinary privilege. Nor do the springs of government appear to me to be weakened in the United States by the custom which renders all public offices responsible to the judges of the land. The Americans seem, on the contrary, to have increased by this means that respect which is due to the authorities,

and at the same time to have rendered those who are in power more scrupulous of offending public opinion. I was struck by the small number of political trials which occur in the United States, but I had no difficulty in accounting for this circumstance. A lawsuit, of whatever nature it may be, is always a difficult and expensive undertaking. It is easy to attack a public man in a journal, but the motives which can warrant an action at law must be serious. A solid ground of complaint must therefore exist to induce an individual to prosecute a public officer, and public officers are careful not to furnish these grounds of complaint when they are afraid of being prosecuted.

This does not depend upon the republican form of American institutions, for the same facts present themselves in England. These two nations do not regard the impeachment of the principal officers of State as a sufficient guarantee of their independence. But they hold that the right of minor prosecutions, which are within the reach of the whole community, is a better pledge of freedom than those great judicial actions which are rarely employed until it is too late.

In the Middle Ages, when it was very difficult to overtake offenders, the judges inflicted the most dreadful tortures on the few who were arrested, which by no means diminished the number of crimes. It has since been discovered that when justice is more certain and more mild, it is at the same time more efficacious. The English and the Americans hold that tyranny and oppression are to be treated like any other crime, by lessening the penalty and facilitating conviction.

In the year VIII of the French Republic a constitution was drawn up in which the following clause was introduced: "Article 75. All the agents of the government below the rank of ministers can only be prosecuted for offences relating to their several functions by virtue of a decree of the Conseil d'Etat; in which case the prosecution takes place before the ordinary tribunals." This clause survived the "Constitution de l'An VIII," and it is still maintained

in spite of the just complaints of the nation. I have always found the utmost difficulty in explaining its meaning to Englishmen or Americans. They were at once led to conclude that the Conseil d'État in France was a great tribunal, established in the centre of the kingdom, which exercised a preliminary and somewhat tyrannical jurisdiction in all political causes. But when I told them that the Conseil d'État was not a judicial body, in the common sense of the term, but an administrative council composed of men dependent on the Crown, so that the king, after having ordered one of his servants, called a Prefect, to commit an injustice, has the power of commanding another of his servants, called a Councilor of State, to prevent the former from being punished; when I demonstrated to them that the citizen who has been injured by the order of the sovereign is obliged to solicit from the sovereign permission to obtain redress, they refused to credit so flagrant an abuse, and were tempted to accuse me of falsehood or of ignorance. It frequently happened before the Revolution that a Parliament issued a warrant against a public officer who had committed an offence, and sometimes the proceedings were stopped by the authority of the Crown, which enforced compliance with its absolute and despotic will. It is painful to perceive how much lower we are sunk than our forefathers, since we allow things to pass under the colour of justice and the sanction of the law which violence alone could impose upon them.

CHAPTER VII

POLITICAL JURISDICTION IN THE UNITED STATES

Definition of political jurisdiction—What is understood by political jurisdiction in France, in England, and in the United States—In America the political judge can only pass sentence on public officers—He more frequently passes a sentence of removal from office than a penalty—Political jurisdiction as it exists in the United States is, notwithstanding its mildness, and perhaps in consequence of that mildness, a most powerful instrument in the hands of the majority.

I UNDERSTAND by political jurisdiction that temporary right of pronouncing a legal decision with which a political body may be invested.

In absolute governments no utility can accrue from the introduction of extraordinary forms of procedure; the prince in whose name an offender is prosecuted is as much the sovereign of the courts of justice as of everything else, and the idea which is entertained of his power is of itself a sufficient security. The only thing he has to fear is, that the external formalities of justice should be neglected, and that his authority should be dishonoured from a wish to render it more absolute. But in most free countries, in which the majority can never exercise the same influence upon the tribunals as an absolute monarch, the judicial power has occasionally been vested for a time in the representatives of the nation. It has been thought better to introduce a temporary confusion between the functions of the different authorities than to violate the necessary principle of the unity of government.

England, France, and the United States have established this political jurisdiction by law; and it is curious to examine the different adaptations which these three great

nations have made of the principle. In England and in France the House of Lords and the Chambre des Pairs constitute the highest criminal court of their respective nations, and although they do not habitually try all political offences, they are competent to try them all. Another political body enjoys the right of impeachment before the House of Lords: the only difference which exists between the two countries in this respect is, that in England the Commons may impeach whomsoever they please before the Lords, while in France the Deputies can only employ this mode of prosecution against the ministers of the Crown.

In both countries the Upper House may make use of all the existing penal laws of the nation to punish the delinquents.

In the United States, as well as in Europe, one branch of the legislature is authorized to impeach and another to judge: the House of Representatives arraigns the offender, and the Senate awards his sentence. But the Senate can only try such persons as are brought before it by the House of Representatives, and those persons must belong to the class of public functionaries. Thus the jurisdiction of the Senate is less extensive than that of the Peers of France, while the right of impeachment by the Representatives is more general than that of the Deputies. But the great difference which exists between Europe and America is, that in Europe political tribunals are empowered to inflict all the dispositions of the penal code, while in America, when they have deprived the offender of his official rank, and have declared him incapable of filling any political office for the future, their jurisdiction terminates and that of the ordinary tribunals begins.

Suppose, for instance, that the President of the United States has committed the crime of high treason; the House of Representatives impeaches him, and the Senate degrades him; he must then be tried by a jury, which alone can deprive him of his liberty or his life. This accurately illustrates the subject we are treating. The political juris-

diction which is established by the laws of Europe is intended to try great offenders, whatever may be their birth, their rank, or their powers in the State; and to this end all the privileges of the courts of justice are temporarily extended to a great political assembly. The legislator is then transformed into the magistrate; he is called upon to admit, to distinguish, and to punish the offence; and as he exercises all the authority of a judge, the law restricts him to the observance of all the duties of that high office, and of all the formalities of justice. When a public functionary is impeached before an English or a French political tribunal, and is found guilty, the sentence deprives him ipso facto of his functions, and it may pronounce him to be incapable of resuming them or any others for the future. But in this case the political interdict is a consequence of the sentence, and not the sentence itself. In Europe the sentence of a political tribunal is to be regarded as a judicial verdict rather than as an administrative measure. In the United States the contrary takes place; and although the decision of the Senate is judicial in its form, since the senators are obliged to comply with the practices and formalities of a court of justice; although it is judicial in respect to the motives on which it is founded, since the Senate is in general obliged to take an offence at common law as the basis of its sentence; nevertheless the object of the proceeding is purely administrative. If it had been the intention of the American legislator to invest a political body with great judicial authority, its action would not have been limited to the circle of public functionaries, since the most dangerous enemies of the State may be in the possession of no functions at all; and this is especially true in republics, where party influence is the first of authorities, and where the strength of many a leader is increased by his exercising no legal power.

If it had been the intention of the American legislator to give society the means of repressing State offences by exemplary punishment, according to the practice of ordi-

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nary justice, the resources of the penal code would all have been placed at the disposal of the political tribunals. But the weapon with which they are intrusted is an imperfect one, and it can never reach the most dangerous offenders, since men who aim at the entire subversion of the laws are not likely to murmur at a political interdict.

The main object of the political jurisdiction which obtains in the United States is, therefore, to deprive the ill-disposed citizen of an authority which he has used amiss, and to prevent him from ever acquiring it again. This is evidently an administrative measure sanctioned by the formalities of a judicial decision. In this matter the Americans have created a mixed system; they have surrounded the act which removes a public functionary with the securities of a political trial; and they have deprived all political condemnations of their severest penalties. Every link of the system may easily be traced from this point; we at once perceive why the American constitutions subject all the civil functionaries to the jurisdiction of the Senate, while the military, whose crimes are nevertheless more formidable, are exempted from that tribunal. In the civil service none of the American functionaries can be said to be removable; the places which some of them occupy are inalienable, and the others are chosen for a term which can not be shortened. It is therefore necessary to try them all in order to deprive them of their authority. But military officers are dependent on the chief magistrate of the State, who is himself a civil functionary, and the decision which condemns him is a blow upon them all.

If we now compare the American and the European systems, we shall meet with differences no less striking in the different effects which each of them produces or may produce. In France and in England the jurisdiction of political bodies is looked upon as an extraordinary resource, which is only to be employed in order to rescue society from unwonted dangers. It is not to be denied that these tribunals, as they are constituted in Europe,

are apt to violate the conservative principle of the balance of power in the State, and to threaten incessantly the lives and liberties of the subject. The same political jurisdiction in the United States is only indirectly hostile to the balance of power; it can not menace the lives of the citizens, and it does not hover, as in Europe, over the heads of the community, since those only who have submitted to its authority on accepting office are exposed to the severity of its investigations. It is at the same time less formidable and less efficacious; indeed, it has not been considered by the legislators of the United States as a remedy for the more violent evils of society, but as an ordinary means of conducting the government. In this respect it probably exercises more real influence on the social body in America than in Europe. We must not be misled by the apparent mildness of the American legislation in all that relates to political jurisdiction. It is to be observed, in the first place, that in the United States the tribunal which passes sentence is composed of the same elements, and subject to the same influences, as the body which impeaches the offender, and that this uniformity gives an almost irresistible impulse to the vindictive passions of parties. If political judges in the United States can not inflict such heavy penalties as those of Europe, there is the less chance of their acquitting a prisoner; and the conviction, if it is less formidable, is more certain. The principal object of the political tribunals of Europe is to punish the offender; the purpose of those in America is to deprive him of his authority. A political condemnation in the United States may, therefore, be looked upon as a preventive measure; and there is no reason for restricting the judges to the exact definitions of criminal law. Nothing can be more alarming than the excessive latitude with which political offences are described in the laws of America. Article II, Section iv, of the Constitution of the United States runs thus: "The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and convic-

tion of, treason, bribery, or other high crimes and misdemeanours." Many of the constitutions of the States are even less explicit. "Public officers," says the Constitution of Massachusetts,[1] "shall be impeached for misconduct or maladministration"; the Constitution of Virginia declares that all the civil officers who shall have offended against the State, by maladministration, corruption, or other high crimes, may be impeached by the House of Delegates; in some constitutions no offences are specified, in order to subject the public functionaries to an unlimited responsibility.[2] But I will venture to affirm that it is precisely their mildness which renders the American laws most formidable in this respect. We have shown that in Europe the removal of a functionary and his political interdiction are the consequences of the penalty he is to undergo, and that in America they constitute the penalty itself. The consequence is that in Europe political tribunals are invested with rights which they are afraid to use, and that the fear of punishing too much hinders them from punishing at all. But in America no one hesitates to inflict a penalty from which humanity does not recoil. To condemn a political opponent to death, in order to deprive him of his power, is to commit what all the world would execrate as a horrible assassination; but to declare that opponent unworthy to exercise that authority, to deprive him of it, and to leave him uninjured in life and limb, may be judged to be the fair issue of the struggle. But this sentence, which it is so easy to pronounce, is not the less fatally severe to the majority of those upon whom it is inflicted. Great criminals may undoubtedly brave its intangible rigour, but ordinary offenders will dread it as a condemnation which destroys their position in the world, casts a blight upon their honour, and condemns them to a shameful inactivity worse than death. The influence exercised in the United States upon the progress of society by the jurisdiction of political bodies may not appear to be formidable, but it is only the more immense. It does not directly coerce the subject, but it renders the majority

more absolute over those in power; it does not confer an unbounded authority on the legislator which can only be exerted at some momentous crisis, but it establishes a temperate and regular influence, which is at all times available. If the power is decreased, it can, on the other hand, be more conveniently employed and more easily abused. By preventing political tribunals from inflicting judicial punishments the Americans seem to have eluded the worst consequences of legislative tyranny, rather than the tyranny itself; and I am not sure that political jurisdiction, as it is constituted in the United States, is not the most formidable weapon which has ever been placed in the rude grasp of a popular majority. When the American republics begin to degenerate it will be easy to verify the truth of this observation, by remarking whether the number of political impeachments augments.[3]

NOTES

[1] Chapter I, sect. ii, § 8.
[2] See the Constitutions of Illinois, Maine, Connecticut, and Georgia.
[3] See Appendix, N.

CHAPTER VIII

THE FEDERAL CONSTITUTION

History of the Federal Constitution—Summary of the Federal Constitution—Prerogative of the Federal Government—Legislative powers—A further difference between the Senate and the House of Representatives—The executive power—Differences between the position of the President of the United States and that of a constitutional King of France—Accidental causes which may increase the influence of the Executive Government—Why the President of the United States does not require the majority of the two Houses in order to carry on the Government—Election of the President—Mode of election—Crisis of the election—Re-election of the President—Federal courts—Means of determining the jurisdiction of the Federal courts—Different cases of jurisdiction—Procedure of the Federal courts—High rank of the Supreme Court among the great powers of state—In what respect the Federal Constitution is superior to that of the States—Characteristics which distinguish the Federal Constitution of the United States of America from all other Federal Constitutions—Advantages of the Federal system in general, and its special utility in America—Why the Federal system is not adapted to all peoples, and how the Anglo-Americans were enabled to adopt it.

I HAVE hitherto considered each State as a separate whole, and I have explained the different springs which the people sets in motion, and the different means of action which it employs. But all the States which I have considered as independent are forced to submit, in certain cases, to the supreme authority of the Union. The time is now come for me to examine separately the supremacy with which the Union has been invested, and to cast a rapid glance over the Federal Constitution.

The thirteen colonies which simultaneously threw off the yoke of England toward the end of the last century professed, as I have already observed, the same religion, the same language, the same customs, and almost the same

laws; they were struggling against a common enemy; and these reasons were sufficiently strong to unite them one to another, and to consolidate them into one nation. But as each of them had enjoyed a separate existence and a government within its own control, the peculiar interests and customs which resulted from this system were opposed to a compact and intimate union which would have absorbed the individual importance of each in the general importance of all. Hence arose two opposite tendencies, the one prompting the Anglo-Americans to unite, the other to divide their strength. As long as the war with the mother-country lasted the principle of union was kept alive by necessity; and although the laws which constituted it were defective, the common tie subsisted in spite of their imperfections.[1] But no sooner was peace concluded than the faults of the legislation became manifest, and the State seemed to be suddenly dissolved. Each colony became an independent republic, and assumed an absolute sovereignty. The Federal Government, condemned to impotence by its Constitution, and no longer sustained by the presence of a common danger, witnessed the outrages offered to its flag by the great nations of Europe, while it was scarcely able to maintain its ground against the Indian tribes, and to pay the interest of the debt which had been contracted during the war of independence. It was already on the verge of destruction, when it officially proclaimed its inability to conduct the government, and appealed to the constituent authority of the nation.[2] If America ever approached (for however brief a time) that lofty pinnacle of glory to which the fancy of its inhabitants is wont to point, it was at the solemn moment at which the power of the nation abdicated, as it were the empire of the land. All ages have furnished the spectacle of a people struggling with energy to win its independence; and the efforts of the Americans in throwing off the English yoke have been considerably exaggerated. Separated from their enemies by three thousand miles of ocean, and backed by a powerful ally, the suc-

cess of the United States may be more justly attributed to their geographical position than to the valour of their armies or the patriotism of their citizens. It would be ridiculous to compare the American war to the wars of the French Revolution, or the efforts of the Americans to those of the French when they were attacked by the whole of Europe, without credit and without allies, yet capable of opposing a twentieth part of their population to the world, and of bearing the torch of revolution beyond their frontiers while they stifled its devouring flame within the bosom of their country. But it is a novelty in the history of society to see a great people turn a calm and scrutinizing eye upon itself, when apprised by the legislature that the wheels of government are stopped; to see it carefully examine the extent of the evil, and patiently wait for two whole years until a remedy was discovered, which it voluntarily adopted without having wrung a tear or a drop of blood from mankind. At the time when the inadequacy of the first constitution was discovered America possessed the double advantage of that calm which had succeeded the effervescence of the Revolution, and of those great men who had led the Revolution to a successful issue. The assembly which accepted the task of composing the second constitution was small;[3] but George Washington was its President, and it contained the choicest talents and the noblest hearts which had ever appeared in the New World. This national commission, after long and mature deliberation, offered to the acceptance of the people the body of general laws which still rules the Union. All the States adopted it successively.[4] The New Federal Government commenced its functions in 1789, after an interregnum of two years. The Revolution of America terminated when that of France began.

The first question which awaited the Americans was intricate, and by no means easy of solution: the object was so to divide the authority of the different States which composed the Union that each of them should continue to govern itself in all that concerned its internal pros-

perity, while the entire nation, represented by the Union, should continue to form a compact body, and to provide for the general exigencies of the people. It was as impossible to determine beforehand, with any degree of accuracy, the share of authority which each of two governments was to enjoy, as to foresee all the incidents in the existence of a nation.

The obligations and the claims of the Federal Government were simple and easily definable, because the Union had been formed with the express purpose of meeting the general exigencies of the people; but the claims and obligations of the States were, on the other hand, complicated and various, because those Governments had penetrated into all the details of social life. The attributes of the Federal Government were therefore carefully enumerated, and all that was not included among them was declared to constitute a part of the privileges of the several Governments of the States. Thus the government of the States remained the rule, and that of the Confederation became the exception.[5]

But as it was foreseen that, in practice, questions might arise as to the exact limits of this exceptional authority, and that it would be dangerous to submit these questions to the decision of the ordinary courts of justice, established in the States by the States themselves, a high Federal court was created,[6] which was destined, among other functions, to maintain the balance of power which had been established by the Constitution between the two rival Governments.[7]

The external relations of a people may be compared to those of private individuals, and they can not be advantageously maintained without the agency of a single head of a Government. The exclusive right of making peace and war, of concluding treaties of commerce, of raising armies, and equipping fleets, was granted to the Union.[8] The necessity of a national Government was less imperiously felt in the conduct of the internal policy of society; but there are certain general interests which can only be

attended to with advantage by a general authority. The Union was invested with the power of controlling the monetary system, of directing the post-office, and of opening the great roads which were to establish a communication between the different parts of the country.[9] The independence of the Government of each State was formally recognised in its sphere; nevertheless, the Federal Government was authorized to interfere in the internal affairs of the States[10] in a few predetermined cases, in which an indiscreet abuse of their independence might compromise the security of the Union at large. Thus, while the power of modifying and changing their legislation at pleasure was preserved in all the republics, they were forbidden to enact ex post facto laws, or to create a class of nobles in their community.[11] Lastly, as it was necessary that the Federal Government should be able to fulfil its engagements, it was endowed with an unlimited power of levying taxes.[12]

In examining the balance of power as established by the Federal Constitution; in remarking on the one hand the portion of sovereignty which has been reserved to the several States, and on the other the share of power which the Union has assumed, it is evident that the Federal legislators entertained the clearest and most accurate notions on the nature of the centralization of government. The United States form not only a republic, but a confederation; nevertheless the authority of the nation is more central than it was in several of the monarchies of Europe when the American Constitution was formed. Take, for instance, the two following examples:

Thirteen supreme courts of justice existed in France, which, generally speaking, had the right of interpreting the law without appeal; and those provinces which were styled pays d'États were authorized to refuse their assent to an impost which had been levied by the sovereign who represented the nation. In the Union there is but one tribunal to interpret, as there is one legislature to make the laws; and an impost voted by the representatives of

the nation is binding upon all the citizens. In these two essential points, therefore, the Union exercises more central authority than the French monarchy possessed, although the Union is only an assemblage of confederate republics.

In Spain certain provinces had the right of establishing a system of custom-house duties peculiar to themselves, although that privilege belongs, by its very nature, to the national sovereignty. In America the Congress alone has the right of regulating the commercial relations of the States. The government of the Confederation is therefore more centralized in this respect than the kingdom of Spain. It is true that the power of the Crown in France or in Spain was always able to obtain by force whatever the Constitution of the country denied, and that the ultimate result was consequently the same; but I am here discussing the theory of the Constitution.

After having settled the limits within which the Federal Government was to act, the next point was to determine the powers which it was to exert. The plan which had been laid down beforehand for the Constitutions of the several States was followed, in many points, in the organization of the powers of the Union. The Federal legislature of the Union was composed of a Senate and a House of Representatives. A spirit of conciliation prescribed the observance of distinct principles in the formation of these two assemblies. I have already shown that two contrary interests were opposed to each other in the establishment of the Federal Constitution. These two interests had given rise to two opinions. It was the wish of one party to convert the Union into a league of independent States, or a sort of congress, at which the representatives of the several peoples would meet to discuss certain points of their common interests. The other party desired to unite the inhabitants of the American colonies into one sole nation, and to establish a Government which should act as the sole representative of the nation, as far as the limited sphere of its authority would permit. The practical

consequences of these two theories were exceedingly different.

The question was, whether a league was to be established instead of a national Government; whether the majority of the States, instead of the majority of the inhabitants of the Union, was to give the law: for every State, the small as well as the great, would then remain in the full enjoyment of its independence, and enter the Union upon a footing of perfect equality. If, however, the inhabitants of the United States were to be considered as belonging to one and the same nation, it would be just that the majority of the citizens of the Union should prescribe the law. Of course, the lesser States could not subscribe to the application of this doctrine without, in fact, abdicating their existence in relation to the sovereignty of the Confederation; since they would have passed from the condition of a coequal and co-legislative authority to that of an insignificant fraction of a great people. But if the former system would have invested them with an excessive authority, the latter would have annulled their influence altogether. Under these circumstances the result was, that the strict rules of logic were evaded, as is usually the case when interests are opposed to arguments. A middle course was hit upon by the legislators, which brought together by force two systems theoretically irreconcilable.

The principle of the independence of the States prevailed in the formation of the Senate, and that of the sovereignty of the nation predominated in the composition of the House of Representatives. It was decided that each State should send two senators to Congress, and a number of representatives proportioned to its population.[13] It results from this arrangement that the State of New York has at the present day forty representatives and only two senators; the State of Delaware has two senators and only one representative; the State of Delaware is therefore equal to the State of New York in the Senate, while the latter has forty times the influence of the former in the House of Representatives. Thus, if the minority of the

nation preponderates in the Senate, it may paralyze the decisions of the majority represented in the other House, which is contrary to the spirit of constitutional government.

These facts show how rare and how difficult it is rationally and logically to combine all the several parts of legislation. In the course of time different interests arise, and different principles are sanctioned by the same people; and when a general constitution is to be established, these interests and principles are so many natural obstacles to the rigorous application of any political system, with all its consequences. The early stages of national existence are the only periods at which it is possible to maintain the complete logic of legislation; and when we perceive a nation in the enjoyment of this advantage, before we hasten to conclude that it is wise, we should do well to remember that it is young. When the Federal Constitution was formed, the interests of independence for the separate States, and the interest of union for the whole people, were the only two conflicting interests which existed among the Anglo-Americans, and a compromise was necessarily made between them.

It is, however, just to acknowledge that this part of the Constitution has not hitherto produced those evils which might have been feared. All the States are young and contiguous; their customs, their ideas, and their exigencies are not dissimilar; and the differences which result from their size or inferiority do not suffice to set their interests at variance. The small States have consequently never been induced to league themselves together in the Senate to oppose the designs of the larger ones; and indeed there is so irresistible an authority in the legitimate expression of the will of a people that the Senate could offer but a feeble opposition to the vote of the majority of the House of Representatives.

It must not be forgotten, on the other hand, that it was not in the power of the American legislators to reduce to a single nation the people for whom they were making

laws. The object of the Federal Constitution was not to destroy the independence of the States, but to restrain it. By acknowledging the real authority of these secondary communities (and it was impossible to deprive them of it), they disavowed beforehand the habitual use of constraint in enforcing the decisions of the majority. Upon this principle the introduction of the influence of the States into the mechanism of the Federal Government was by no means to be wondered at, since it only attested the existence of an acknowledged power, which was to be humoured and not forcibly checked.

The Senate not only differs from the other House in the principle which it represents, but also in the mode of its election, in the term for which it is chosen, and in the nature of its functions. The House of Representatives is named by the people, the Senate by the legislators of each State; the former is directly elected, the latter is elected by an elected body; the term for which the representatives are chosen is only two years, that of the senators is six. The functions of the House of Representatives are purely legislative, and the only share it takes in the judicial power is in the impeachment of public officers. The Senate co-operates in the work of legislation, and tries those political offences which the House of Representatives submits to its decision. It also acts as the great executive council of the nation; the treaties which are concluded by the President must be ratified by the Senate, and the appointments he may make must be definitely approved by the same body.[14]

The American legislators undertook a difficult task in attempting to create an executive power[15] dependent on the majority of the people, and nevertheless sufficiently strong to act without restraint in its own sphere. It was indispensable to the maintenance of the republican form of government that the representative of the executive power should be subject to the will of the nation.

The President is an elective magistrate. His honour, his property, his liberty, and his life are the securities

which the people has for the temperate use of his power. But in the exercise of his authority, he can not be said to be perfectly independent; the Senate takes cognizance of his relations with foreign powers, and of the distribution of public appointments, so that he can neither be bribed nor can he employ the means of corruption. The legislators of the Union acknowledged that the executive power would be incompetent to fulfil its task with dignity and utility, unless it enjoyed a greater degree of stability and of strength than had been granted to it in the separate States.

The President is chosen for four years, and he may be re-elected; so that the chances of a prolonged administration may inspire him with hopeful undertakings for the public good, and with the means of carrying them into execution. The President was made the sole representative of the executive power of the Union, and care was taken not to render his decisions subordinate to the vote of a council—a dangerous measure, which tends at the same time to clog the action of the Government and to diminish its responsibility. The Senate has the right of annulling certain acts of the President; but it can not compel him to take any steps, nor does it participate in the exercise of the executive power.

The action of the legislature on the executive power may be direct; and we have just shown that the Americans carefully obviated this influence; but it may, on the other hand, be indirect. Public assemblies which have the power of depriving an officer of state of his salary encroach upon his independence; and as they are free to make the laws, it is to be feared lest they should gradually appropriate to themselves a portion of that authority which the Constitution had vested in his hands. This dependence of the executive power is one of the defects inherent in republican constitutions. The Americans have not been able to counteract the tendency which legislative assemblies have to get possession of the government, but they have rendered this propensity less irresistible. The salary

of the President is fixed, at the time of his entering upon office, for the whole period of his magistracy. The President is, moreover, provided with a suspensive veto, which allows him to oppose the passing of such laws as might destroy the portion of independence which the Constitution awards him. The struggle between the President and the legislature must always be an unequal one, since the latter is certain of bearing down all resistance by persevering in its plans; but the suspensive veto forces it at least to reconsider the matter, and, if the motion be persisted in, it must then be backed by a majority of two thirds of the whole house. The veto is, in fact, a sort of appeal to the people. The executive power, which, without this security, might have been secretly oppressed, adopts this means of pleading its cause and stating its motives. But if the legislature is certain of overpowering all resistance by persevering in its plans, I reply, that in the constitutions of all nations, of whatever kind they may be, a certain point exists at which the legislator is obliged to have recourse to the good sense and the virtue of his fellow-citizens. This point is more prominent and more discoverable in republics, while it is more remote and more carefully concealed in monarchies, but it always exists somewhere. There is no country in the world in which everything can be provided for by the laws, or in which political institutions can prove a substitute for common sense and public morality.

The executive power has so important an influence on the destinies of nations that I am inclined to pause for an instant at this portion of my subject, in order more clearly to explain the part it sustains in America. In order to form an accurate idea of the position of the President of the United States, it may not be irrelevant to compare it to that of one of the constitutional kings of Europe. In this comparison I shall pay but little attention to the external signs of power, which are more apt to deceive the eye of the observer than to guide his researches. When a monarchy is being gradually transformed into a republic,

the executive power retains the titles, the honours, the etiquette, and even the funds of royalty long after its authority has disappeared. The English, after having cut off the head of one king and expelled another from his throne, were accustomed to accost the successor of those princes upon their knees. On the other hand, when a republic falls under the sway of a single individual, the demeanour of the sovereign is simple and unpretending, as if his authority was not yet paramount. When the emperors exercised an unlimited control over the fortunes and the lives of their fellow-citizens, it was customary to call them Cæsar in conversation, and they were in the habit of supping without formality at their friends' houses. It is therefore necessary to look below the surface.

The sovereignty of the United States is shared between the Union and the States, while in France it is undivided and compact: hence arises the first and the most notable difference which exists between the President of the United States and the King of France. In the United States the executive power is as limited and partial as the sovereignty of the Union in whose name it acts; in France it is as universal as the authority of the State. The Americans have a federal and the French a national Government.

This cause of inferiority results from the nature of things, but it is not the only one; the second in importance is as follows: Sovereignty may be defined to be the right of making laws: in France, the King really exercises a portion of the sovereign power, since the laws have no weight till he has given his assent to them; he is, moreover, the executor of all they ordain. The President is also the executor of the laws, but he does not really cooperate in their formation, since the refusal of his assent does not annul them. He is therefore merely to be considered as the agent of the sovereign power. But not only does the King of France exercise a portion of the sovereign power, he also contributes to the nomination of the legislature, which exercises the other portion. He has the privilege of appointing the members of one chamber,

and of dissolving the other at his pleasure; whereas the President of the United States has no share in the formation of the legislative body, and can not dissolve any part of it. The King has the same right of bringing forward measures as the Chambers; a right which the President does not possess. The King is represented in each assembly by his ministers, who explain his intentions, support his opinions, and maintain the principles of the Government. The President and his ministers are alike excluded from Congress; so that his influence and his opinions can only penetrate indirectly into that great body. The King of France is therefore on an equal footing with the legislature, which can no more act without him than he can without it. The President exercises an authority inferior to, and depending upon, that of the legislature.

Even in the exercise of the executive power, properly so called—the point upon which his position seems to be most analogous to that of the King of France—the President labours under several causes of inferiority. The authority of the King, in France, has, in the first place, the advantage of duration over that of the President, and durability is one of the chief elements of strength; nothing is either loved or feared but what is likely to endure. The President of the United States is a magistrate elected for four years; the King, in France, is an hereditary sovereign. In the exercise of the executive power the President of the United States is constantly subject to a jealous scrutiny. He may make, but he can not conclude, a treaty; he may designate, but he can not appoint, a public officer.[16] The King of France is absolute within the limits of his authority. The President of the United States is responsible for his actions; but the person of the King is declared inviolable by the French Charter.

Nevertheless, the supremacy of public opinion is no less above the head of the one than of the other. This power is less definite, less evident, and less sanctioned by the laws in France than in America, but in fact it exists. In America, it acts by elections and decrees; in France

it proceeds by revolutions; but notwithstanding the different constitutions of these two countries, public opinion is the predominant authority in both of them. The fundamental principle of legislation—a principle essentially republican—is the same in both countries, although its consequences may be different, and its results more or less extensive. Whence I am led to conclude that France with its King is nearer akin to a republic than the Union with its President is to a monarchy.

In what I have been saying I have only touched upon the main points of distinction; and if I could have entered into details, the contrast would have been rendered still more striking.

I have remarked that the authority of the President in the United States is only exercised within the limits of a partial sovereignty, while that of the King of France is undivided. I might have gone on to show that the power of the King's government in France exceeds its natural limits, however extensive they may be, and penetrates in a thousand different ways into the administration of private interests. Among the examples of this influence may be quoted that which results from the great number of public functionaries, who all derive their appointments from the Government. This number now exceeds all previous limits; it amounts to 138,000[17] nominations, each of which may be considered as an element of power. The President of the United States has not the exclusive right of making any public appointments, and their whole number scarcely exceeds 12,000.[18]

If the executive government is feebler in America than in France, the cause is more attributable to the circumstances than to the laws of the country.

It is chiefly in its foreign relations that the executive power of a nation is called upon to exert its skill and its vigour. If the existence of the Union were perpetually threatened, and if its chief interests were in daily connection with those of other powerful nations, the executive government would assume an increased importance in

proportion to the measures expected of it, and those which it would carry into effect. The President of the United States is the commander-in-chief of the army, but of an army composed of only six thousand men; he commands the fleet, but the fleet reckons but few sail; he conducts the foreign relations of the Union, but the United States are a nation without neighbours. Separated from the rest of the world by the ocean, and too weak as yet to aim at the dominion of the seas, they have no enemies, and their interests rarely come into contact with those of any other nation of the globe.

The practical part of a Government must not be judged by the theory of its constitution. The President of the United States is in the possession of almost royal prerogatives, which he has no opportunity of exercising; and those privileges which he can at present use are very circumscribed. The laws allow him to possess a degree of influence which circumstances do not permit him to employ.

On the other hand, the great strength of the royal prerogative in France arises from circumstances far more than from the laws. There the executive government is constantly struggling against prodigious obstacles, and exerting all its energies to repress them; so that it increases by the extent of its achievements, and by the importance of the events it controls, without modifying its constitution. If the laws had made it as feeble and as circumscribed as it is in the Union, its influence would very soon become still more preponderant.

It is an established axiom in Europe that a constitutional King can not persevere in a system of government which is opposed by the two other branches of the legislature. But several Presidents of the United States have been known to lose the majority in the legislative body without being obliged to abandon the supreme power, and without inflicting a serious evil upon society. I have heard this fact quoted as an instance of the independence and the power of the executive government in America:

a moment's reflection will convince us, on the contrary, that it is a proof of its extreme weakness.

A King in Europe requires the support of the legislature to enable him to perform the duties imposed upon him by the Constitution, because those duties are enormous. A constitutional King in Europe is not merely the executor of the law, but the execution of its provisions devolves so completely upon him that he has the power of paralyzing its influence if it opposes his designs. He requires the assistance of the legislative assemblies to make the law, but those assemblies stand in need of his aid to execute it: these two authorities can not subsist without each other, and the mechanism of government is stopped as soon as they are at variance.

In America the President can not prevent any law from being passed, nor can he evade the obligation of enforcing it. His sincere and zealous co-operation is no doubt useful, but it is not indispensable, in the carrying on of public affairs. All his important acts are directly or indirectly submitted to the legislature, and of his own free authority he can do but little. It is therefore his weakness, and not his power, which enables him to remain in opposition to Congress. In Europe, harmony must reign between the Crown and the other branches of the legislature, because a collision between them may prove serious; in America, this harmony is not indispensable, because such a collision is impossible.

The dangers of the system of election applied to the head of the executive government of a great people have been sufficiently exemplified by experience and by history, and the remarks I am about to make refer to America alone. These dangers may be more or less formidable in proportion to the place which the executive power occupies, and to the importance it possesses in the State; and they may vary according to the mode of election and the circumstances in which the electors are placed. The most weighty argument against the election of a chief magistrate is, that it offers so splendid a lure to private ambition, and

is so apt to inflame men in the pursuit of power, that when legitimate means are wanting force may not infrequently seize what right denied.

It is clear that the greater the privileges of the executive authority are, the greater is the temptation; the more the ambition of the candidates is excited, the more warmly are their interests espoused by a throng of partisans who hope to share the power when their patron has won the prize. The dangers of the elective system increase, therefore, in the exact ratio of the influence exercised by the executive power in the affairs of State. The revolutions of Poland were not solely attributable to the elective system in general, but to the fact that the elected monarch was the sovereign of a powerful kingdom. Before we can discuss the absolute advantages of the elective system we must make preliminary inquiries as to whether the geographical position, the laws, the habits, the manners, and the opinions of the people among whom it is to be introduced will admit of the establishment of a weak and dependent executive government; for to attempt to render the representative of the State a powerful sovereign, and at the same time elective, is, in my opinion, to entertain two incompatible designs. To reduce hereditary royalty to the condition of an elective authority, the only means that I am acquainted with are to circumscribe its sphere of action beforehand, gradually to diminish its prerogatives, and to accustom the people to live without its protection. Nothing, however, is further from the designs of the republicans of Europe than this course: as many of them owe their hatred of tyranny to the sufferings which they have personally undergone, it is oppression, and not the extent of the executive power, which excites their hostility, and they attack the former without perceiving how nearly it is connected with the latter.

Hitherto no citizen has shown any disposition to expose his honour and his life in order to become the President of the United States; because the power of that office is temporary, limited, and subordinate. The prize

of fortune must be great to encourage adventurers in so desperate a game. No candidate as yet has been able to arouse the dangerous enthusiasm or the passionate sympathies of the people in his favour, for the very simple reason that when he is at the head of the Government he has but little power, but little wealth, and but little glory to share among his friends; and his influence in the State is too small for the success or the ruin of a faction to depend upon the elevation of an individual to power.

The great advantage of hereditary monarchies is that, as the private interest of a family is always intimately connected with the interests of the State, the executive government is never suspended for a single instant; and if the affairs of a monarchy are not better conducted than those of a republic, at least there is always some one to conduct them, well or ill, according to his capacity. In elective States, on the contrary, the wheels of government cease to act, as it were, of their own accord at the approach of an election, and even for some time previous to that event. The laws may indeed accelerate the operation of the election, which may be conducted with such simplicity and rapidity that the seat of power will never be left vacant; but, notwithstanding these precautions, a break necessarily occurs in the minds of the people.

At the approach of an election the head of the executive government is wholly occupied by the coming struggle; his future plans are doubtful; he can undertake nothing new, and he will only prosecute with indifference those designs which another will perhaps terminate. "I am so near the time of my retirement from office," said President Jefferson on the 21st of January, 1809 (six weeks before the election), "that I feel no passion, I take no part, I express no sentiment. It appears to me just to leave to my successor the commencement of those measures which he will have to prosecute, and for which he will be responsible."

On the other hand, the eyes of the nation are centred on a single point; all are watching the gradual birth of

so important an event. The wider the influence of the executive power extends, the greater and the more necessary is its constant action, the more fatal is the term of suspense; and a nation which is accustomed to the government, or, still more, one used to the administrative protection of a powerful executive authority, would be infallibly convulsed by an election of this kind. In the United States the action of the Government may be slackened with impunity, because it is always weak and circumscribed.

One of the principal vices of the elective system is that it always introduces a certain degree of instability into the internal and external policy of the State. But this disadvantage is less sensibly felt if the share of power vested in the elected magistrate is small. In Rome the principles of the Government underwent no variation, although the Consuls were changed every year, because the Senate, which was an hereditary assembly, possessed the directing authority. If the elective system were adopted in Europe, the condition of most of the monarchical States would be changed at every new election. In America the President exercises a certain influence on State affairs, but he does not conduct them; the preponderating power is vested in the representatives of the whole nation. The political maxims of the country depend therefore on the mass of the people, not on the President alone; and consequently in America the elective system has no very prejudicial influence on the fixed principles of the Government. But the want of fixed principles is an evil so inherent in the elective system that it is still extremely perceptible in the narrow sphere to which the authority of the President extends.

The Americans have admitted that the head of the executive power, who has to bear the whole responsibility of the duties he is called upon to fulfil, ought to be empowered to choose his own agents, and to remove them at pleasure: the legislative bodies watch the conduct of the President more than they direct it. The consequence of

this arrangement is, that at every new election the fate of all the Federal public officers is in suspense. Mr. Quincy Adams, on his entry into office, discharged the majority of the individuals who had been appointed by his predecessor: and I am not aware that General Jackson allowed a single removable functionary employed in the Federal service to retain his place beyond the first year which succeeded his election. It is sometimes made a subject of complaint that in the constitutional monarchies of Europe the fate of the humbler servants of an administration depends upon that of the ministers. But in elective Governments this evil is far greater. In a constitutional monarchy successive ministries are formed rapidly; but as the principal representative of the executive power does not change, the spirit of innovation is kept within bounds; the changes which take place are in the details rather than in the principles of the administrative system; but to substitute one system for another, as is done in America every four years, by law, is to cause a sort of revolution. As to the misfortunes which may fall upon individuals in consequence of this state of things, it must be allowed that the uncertain situation of the public officers is less fraught with evil consequences in America than elsewhere. It is so easy to acquire an independent position in the United States that the public officer who loses his place may be deprived of the comforts of life, but not of the means of subsistence.

I remarked at another point in this chapter that the dangers of the elective system applied to the head of the State are augmented or decreased by the peculiar circumstances of the people which adopts it. However the functions of the executive power may be restricted, it must always exercise a great influence upon the foreign policy of the country, for a negotiation can not be opened or successfully carried on otherwise than by a single agent. The more precarious and the more perilous the position of a people becomes, the more absolute is the want of a fixed and consistent external policy, and the more dangerous

does the elective system of the chief magistrate become. The policy of the Americans in relation to the whole world is exceedingly simple; for it may almost be said that no country stands in need of them, nor do they require the co-operation of any other people. Their independence is never threatened. In their present condition, therefore, the functions of the executive power are no less limited by circumstances than by the laws; and the President may frequently change his line of policy without involving the State in difficulty or destruction.

Whatever the prerogatives of the executive power may be, the period which immediately precedes an election and the moment of its duration must always be considered as a national crisis, which is perilous in proportion to the internal embarrassment and the external dangers of the country. Few of the nations of Europe could escape the calamities of anarchy or of conquest every time they might have to elect a new sovereign. In America society is so constituted that it can stand without assistance upon its own basis; nothing is to be feared from the pressure of external dangers, and the election of the President is a cause of agitation, but not of ruin.

Besides the dangers which are inherent in the system, many other difficulties may arise from the mode of election, which may be obviated by the precaution of the legislator. When a people met in arms on some public spot to choose its head, it was exposed to all the chances of civil war resulting from so martial a mode of proceeding, besides the dangers of the elective system in itself. The Polish laws, which subjected the election of the sovereign to the veto of a single individual, suggested the murder of that individual, or prepared the way to anarchy.

In the examination of the institutions and the political as well as social condition of the United States, we are struck by the admirable harmony of the gifts of fortune and the efforts of man. That nation possessed two of the main causes of internal peace; it was a new country, but

it was inhabited by a people grown old in the exercise of freedom. America had no hostile neighbours to dread; and the American legislators, profiting by these favourable circumstances, created a weak and subordinate executive power which could without danger be made elective.

It then only remained for them to choose the least dangerous of the various modes of election; and the rules which they laid down upon this point admirably correspond to the securities which the physical and political constitution of the country already afforded. Their object was to find the mode of election which would best express the choice of the people with the least possible excitement and suspense. It was admitted in the first place that the simple majority should be decisive; but the difficulty was to obtain this majority without an interval of delay which it was most important to avoid. It rarely happens that an individual can at once collect the majority of the suffrages of a great people; and this difficulty is enhanced in a republic of confederate States, where local influences are apt to preponderate. The means by which it was proposed to obviate this second obstacle was to delegate the electoral powers of the nation to a body of representatives. This mode of election rendered a majority more probable; for the fewer the electors are, the greater is the chance of their coming to a final decision. It also offered an additional probability of a judicious choice. It then remained to be decided whether this right of election was to be intrusted to a legislative body, the habitual representative assembly of the nation, or whether an electoral assembly should be formed for the express purpose of proceeding to the nomination of a President. The Americans chose the latter alternative, from a belief that the individuals who were returned to make the laws were incompetent to represent the wishes of the nation in the election of its chief magistrate; and that, as they are chosen for more than a year, the constituency they represent might have changed its opinion in that time. It was thought that if the legislature was empowered to

elect the head of the executive power, its members would, for some time before the election, be exposed to the manœuvres of corruption and the tricks of intrigue; whereas the special electors would, like a jury, remain mixed up with the crowd till the day of action, when they would appear for the sole purpose of giving their votes.

It was therefore established that every State should name a certain number of electors,[19] who in their turn should elect the President; and as it had been observed that the assemblies to which the choice of a chief magistrate had been intrusted in elective countries inevitably became the centres of passion and of cabal; that they sometimes usurped an authority which did not belong to them; and that their proceedings, or the uncertainty which resulted from them, were sometimes prolonged so much as to endanger the welfare of the State, it was determined that the electors should all vote upon the same day, without being convoked to the same place.[20] This double election rendered a majority probable, though not certain; for it was possible that as many differences might exist between the electors as between their constituents. In this case it was necessary to have recourse to one of three measures; either to appoint new electors, or to consult a second time those already appointed, or to defer the election to another authority. The first two of these alternatives, independently of the uncertainty of their results, were likely to delay the final decision, and to perpetuate an agitation which must always be accompanied with danger. Therefore the third expedient was adopted, and it was agreed that the votes should be transmitted sealed to the President of the Senate, and that they should be opened and counted in the presence of the Senate and the House of Representatives. If none of the candidates has a majority, the House of Representatives then proceeds immediately to elect a President, but with the condition that it must fix upon one of the three candidates who have the highest numbers.[21]

Thus it is only in case of an event which can not often

happen, and which can never be foreseen, that the election is intrusted to the ordinary representatives of the nation; and even then they are obliged to choose a citizen who has already been designated by a powerful minority of the special electors. It is by this happy expedient that the respect which is due to the popular voice is combined with the utmost celerity of execution and those precautions which the peace of the country demands. But the decision of the question by the House of Representatives does not necessarily offer an immediate solution of the difficulty, for the majority of that assembly may still be doubtful, and in this case the Constitution prescribes no remedy. Nevertheless, by restricting the number of candidates to three, and by referring the matter to the judgment of an enlightened public body, it has smoothed all the obstacles [22] which are not inherent in the elective system.

In the forty-four years which have elapsed since the promulgation of the Federal Constitution the United States have twelve times chosen a President. Ten of these elections took place simultaneously by the votes of the special electors in the different States. The House of Representatives has only twice exercised its conditional privilege of deciding in cases of uncertainty: the first time was at the election of Mr. Jefferson in 1801; the second was in 1825, when Mr. Quincy Adams was named.

I have shown what the circumstances are which favoured the adoption of the elective system in the United States, and what precautions were taken by the legislators to obviate its dangers. The Americans are habitually accustomed to all kinds of elections, and they know by experience the utmost degree of excitement which is compatible with security. The vast extent of the country and the dissemination of the inhabitants render a collision between parties less probable and less dangerous there than elsewhere. The political circumstances under which the elections have hitherto been carried on have presented no real embarrassments to the nation.

Nevertheless, the epoch of the election of a President

of the United States may be considered as a crisis in the affairs of the nation. The influence which he exercises on public business is no doubt feeble and indirect; but the choice of the President, which is of small importance to each individual citizen, concerns the citizens collectively; and however trifling an interest may be, it assumes a great degree of importance as soon as it becomes general. The President possesses but few means of rewarding his supporters in comparison to the kings of Europe, but the places which are at his disposal are sufficiently numerous to interest, directly or indirectly, several thousand electors in his success. Political parties in the United States are led to rally round an individual, in order to acquire a more tangible shape in the eyes of the crowd, and the name of the candidate for the presidency is put forward as the symbol and personification of their theories. For these reasons parties are strongly interested in gaining the election, not so much with a view to the triumph of their principles under the auspices of the President-elect as to show by the majority which returned him, the strength of the supporters of those principles.

For a long while before the appointed time is at hand the election becomes the most important and the all-engrossing topic of discussion. The ardour of faction is redoubled; and all the artificial passions which the imagination can create in the bosom of a happy and peaceful land are agitated and brought to light. The President, on the other hand, is absorbed by the cares of self-defence. He no longer governs for the interest of the State, but for that of his re-election; he does homage to the majority, and instead of checking its passions, as his duty commands him to do, he frequently courts its worst caprices. As the election draws near, the activity of intrigue and the agitation of the populace increase; the citizens are divided into hostile camps, each of which assumes the name of its favourite candidate; the whole nation glows with feverish excitement; the election is the daily theme of the public papers, the subject of private conversation,

the end of every thought and every action, the sole interest of the present. As soon as the choice is determined, this ardour is dispelled; and as a calmer season returns, the current of the State, which had nearly broken its banks, sinks to its usual level: but who can refrain from astonishment at the causes of the storm?

It may be asked whether the legislators of the United States did right or wrong in allowing the re-election of the President. It seems at first sight contrary to all reason to prevent the head of the executive power from being elected a second time. The influence which the talents and the character of a single individual may exercise upon the fate of a whole people, in critical circumstances or arduous times, is well known: a law preventing the re-election of the chief magistrate would deprive the citizens of the surest pledge of the prosperity and the security of the commonwealth; and, by a singular inconsistency, a man would be excluded from the government at the very time when he had shown his ability in conducting its affairs.

But if these arguments are strong, perhaps still more powerful reasons may be advanced against them. Intrigue and corruption are the natural defects of elective government; but when the head of the State can be re-elected these evils rise to a great height, and compromise the very existence of the country. When a simple candidate seeks to rise by intrigue, his manœuvres must necessarily be limited to a narrow sphere; but when the chief magistrate enters the lists, he borrows the strength of the Government for his own purposes. In the former case the feeble resources of an individual are in action; in the latter, the State itself, with all its immense influence, is busied in the work of corruption and cabal. The private citizen, who employs the most immoral practices to acquire power, can only act in a manner indirectly prejudicial to the public prosperity. But if the representative of the executive descends into the combat, the cares of government dwindle into second-rate importance, and the success of his elec-

tion is his first concern. All laws and all the negotiations he undertakes are to him nothing more than electioneering schemes; places become the reward of services rendered, not to the nation, but to its chief; and the influence of the Government, if not injurious to the country, is at least no longer beneficial to the community for which it was created.

It is impossible to consider the ordinary course of affairs in the United States without perceiving that the desire of being re-elected is the chief aim of the President; that his whole administration, and even his most indifferent measures, tend to this object; and that, as the crisis approaches, his personal interest takes the place of his interest in the public good. The principle of re-eligibility renders the corrupt influence of elective governments still more extensive and pernicious.

In America it exercises a peculiarly fatal influence on the sources of national existence. Every Government seems to be afflicted by some evil which is inherent in its nature, and the genius of the legislator is shown in eluding its attacks. A State may survive the influence of a host of bad laws, and the mischief they cause is frequently exaggerated; but a law which encourages the growth of the canker within must prove fatal in the end, although its bad consequences may not be immediately perceived.

The principle of destruction in absolute monarchies lies in the excessive and unreasonable extension of the prerogative of the Crown; and a measure tending to remove the constitutional provisions which counterbalace this influence would be radically bad, even if its immediate consequences were unattended with evil. By a parity of reasoning, in countries governed by a democracy, where the people is perpetually drawing all authority to itself, the laws which increase or accelerate its action are the direct assailants of the very principle of the Government.

The greatest proof of the ability of the American legislators is, that they clearly discerned this truth, and that they had the courage to act up to it. They conceived that

a certain authority above the body of the people was necessary, which should enjoy a degree of independence, without, however, being entirely beyond the popular control; an authority which would be forced to comply with the permanent determinations of the majority, but which would be able to resist its caprices, and to refuse its most dangerous demands. To this end they centred the whole executive power of the nation in a single arm; they granted extensive prerogatives to the President, and they armed him with the veto to resist the encroachments of the legislature.

But by introducing the principle of re-election they partly destroyed their work; and they rendered the President but little inclined to exert the great power they had vested in his hands. If ineligible a second time, the President would be far from independent of the people, for his responsibility would not be lessened; but the favour of the people would not be so necessary to him as to induce him to court it by humouring its desires. If re-eligible (and this is more especially true at the present day, when political morality is relaxed, and when great men are rare), the President of the United States becomes an easy tool in the hands of the majority. He adopts its likings and its animosities, he hastens to anticipate its wishes, he forestalls its complaints, he yields to its idlest cravings, and instead of guiding it, as the legislature intended that he should do, he is ever ready to follow its bidding. Thus, in order not to deprive the State of the talents of an individual, those talents have been rendered almost useless; and to reserve an expedient for extraordinary perils, the country has been exposed to daily dangers.

I have inquired into the legislative and executive power of the Union, and the judicial power [23] now remains to be examined; but in this place I can not conceal my fears from the reader. Their judicial institutions exercise a great influence on the condition of the Anglo-Americans, and they occupy a prominent place among what are probably called political institutions: in this respect they are

peculiarly deserving of our attention. But I am at a loss to explain the political action of the American tribunals without entering into some technical details of their constitution and their forms of proceeding; and I know not how to descend to these minutiæ without wearying the curiosity of the reader by the natural aridity of the subject, or without risking to fall into obscurity through a desire to be succinct. I can scarcely hope to escape these various evils; for if I appear too lengthy to a man of the world, a lawyer may on the other hand complain of my brevity. But these are the natural disadvantages of my subject, and more especially of the point which I am about to discuss.

The great difficulty was, not to devise the Constitution to the Federal Government, but to find out a method of enforcing its laws. Governments have in general but two means of overcoming the opposition of the people they govern, viz., the physical force which is at their own disposal, and the moral force which they derive from the decisions of the courts of justice.

A Government which should have no other means of exacting obedience than open war must be very near its ruin, for one of two alternatives would then probably occur: if its authority was small and its character temperate, it would not resort to violence till the last extremity, and it would connive at a number of partial acts of insubordination, in which case the State would gradually fall into anarchy; if it was enterprising and powerful, it would perpetually have recourse to its physical strength, and would speedily degenerate into a military despotism. So that its activity would not be less prejudicial to the community than its inaction.

The great end of justice is to substitute the notion of right for that of violence, and to place a legal barrier between the power of the Government and the use of physical force. The authority which is awarded to the intervention of a court of justice by the general opinion of mankind is so surprisingly great that it clings to the mere

formalities of justice, and gives a bodily influence to the shadow of the law. The moral force which courts of justice possess renders the introduction of physical force exceedingly rare, and is very frequently substituted for it; but if the latter proves to be indispensable, its power is doubled by the association of the idea of law.

A Federal Government stands in greater need of the support of judicial institutions than any other, because it is naturally weak and exposed to formidable opposition.[24] If it were always obliged to resort to violence in the first instance, it could not fulfil its task. The Union, therefore, required a national judiciary to enforce the obedience of the citizens to the laws, and to repel the attacks which might be directed against them. The question then remained as to what tribunals were to exercise these privileges; were they to be intrusted to the courts of justice which were already organized in every State? or was it necessary to create Federal courts? It may easily be proved that the Union could not adapt the judicial power of the States to its wants. The separation of the judiciary from the administrative power of the State no doubt affects the security of every citizen and the liberty of all. But it is no less important to the existence of the nation that these several powers should have the same origin, should follow the same principles, and act in the same sphere; in a word, that they should be correlative and homogeneous. No one, I presume, ever suggested the advantage of trying offences committed in France by a foreign court of justice, in order to secure the impartiality of the judges. The Americans form one people in relation to their Federal Government; but in the bosom of this people divers political bodies have been allowed to subsist which are dependent on the national Government in a few points, and independent in all the rest; which have all a distinct origin, maxims peculiar to themselves, and special means of carrying on their affairs. To intrust the execution of the laws of the Union to tribunals instituted by these political bodies would be to allow foreign judges

to preside over the nation. Nay, more; not only is each State foreign to the Union at large, but it is in perpetual opposition to the common interests, since whatever authority the Union loses turns to the advantage of the States. Thus to enforce the laws of the Union by means of the tribunals of the States would be to allow not only foreign but partial judges to preside over the nation.

But the number, still more than the mere character, of the tribunals of the States rendered them unfit for the service of the nation. When the Federal Constitution was formed there were already thirteen courts of justice in the United States which decided causes without appeal. That number is now increased to twenty-four. To suppose that a State can subsist when its fundamental laws may be subjected to four-and-twenty different interpretations at the same time is to advance a proposition alike contrary to reason and to experience.

The American legislators therefore agreed to create a Federal judiciary power to apply the laws of the Union, and to determine certain questions affecting general interests, which were carefully determined beforehand. The entire judicial power of the Union was centred in one tribunal, which was denominated the Supreme Court of the United States. But, to facilitate the expedition of business, inferior courts were appended to it, which were empowered to decide causes of small importance without appeal, and with appeal causes of more magnitude. The members of the Supreme Court are named neither by the people nor the legislature, but by the President of the United States, acting with the advice of the Senate. In order to render them independent of the other authorities, their office was made inalienable; and it was determined that their salary, when once fixed, should not be altered by the legislature.[25] It was easy to proclaim the principle of a Federal judiciary, but difficulties multiplied when the extent of its jurisdiction was to be determined.

As the Constitution of the United States recognised two distinct powers in presence of each other, represented

in a judicial point of view by two distinct classes of courts of justice, the utmost care which could be taken in defining their separate jurisdictions would have been insufficient to prevent frequent collisions between those tribunals. The question then arose to whom the right of deciding the competency of each court was to be referred.

In nations which constitute a single body politic, when a question is debated between two courts relating to their mutual jurisdiction, a third tribunal is generally within reach to decide the difference; and this is effected without difficulty, because in these nations the questions of judicial competency have no connection with the privileges of the national supremacy. But it was impossible to create an arbiter between a superior court of the Union and the superior court of a separate State which would not belong to one of these two classes. It was therefore necessary to allow one of these courts to judge its own cause, and to take or to retain cognizance of the point which was contested. To grant this privilege to the different courts of the States would have been to destroy the sovereignty of the Union de facto after having established it de jure; for the interpretation of the Constitution would soon have restored to the States that portion of independence of which the terms of that act deprived them. The object of the creation of a Federal tribunal was to prevent the courts of the States from deciding questions affecting the national interests in their own department, and so to form a uniform body of jurisprudence for the interpretation of the laws of the Union. This end would not have been accomplished if the courts of the several States had been competent to decide upon cases in their separate capacities from which they were obliged to abstain as Federal tribunals. The Supreme Court of the United States was therefore invested with the right of determining all questions of jurisdiction.[26]

This was a severe blow upon the independence of the States, which was thus restricted not only by the laws, but by the interpretation of them; by one limit which was

known, and by another which was dubious; by a rule which was certain, and a rule which was arbitrary. It is true the Constitution had laid down the precise limits of the Federal supremacy, but whenever this supremacy is contested by one of the States, a Federal tribunal decides the question. Nevertheless, the dangers with which the independence of the States was threatened by this mode of proceeding are less serious than they appear to be. We shall see hereafter that in America the real strength of the country is vested in the provincial far more than in the Federal Government. The Federal judges are conscious of the relative weakness of the power in whose name they act, and they are more inclined to abandon a right of jurisdiction in cases where it is justly their own than to assert a privilege to which they have no legal claim.

After having appointed the means of fixing the competency of the Federal courts, the legislators of the Union defined the cases which should come within their jurisdiction. It was established, on the one hand, that certain parties must always be brought before the Federal courts, without any regard to the special nature of the cause; and, on the other, that certain causes must always be brought before the same courts, without any regard to the quality of the parties in the suit. These distinctions were therefore admitted to be the bases of the Federal jurisdiction.

Ambassadors are the representatives of nations in a state of amity with the Union, and whatever concerns these personages concerns in some degree the whole Union. When an ambassador is a party in a suit, that suit affects the welfare of the nation, and a Federal tribunal is naturally called upon to decide it.

The Union itself may be invoked in legal proceedings, and in this case it would be alike contrary to the customs of all nations and to common sense to appeal to a tribunal representing any other sovereignty than its own; the Federal courts, therefore, take cognizance of these affairs.

When two parties belonging to two different States are engaged in a suit, the case can not with propriety be

brought before a court of either State. The surest expedient is to select a tribunal like that of the Union, which can excite the suspicions of neither party, and which offers the most natural as well as the most certain remedy.

When the two parties are not private individuals, but States, an important political consideration is added to the same motive of equity. The quality of the parties in this case gives a national importance to all their disputes; and the most trifling litigation of the States may be said to involve the peace of the whole Union.[27]

The nature of the cause frequently prescribes the rule of competency. Thus all the questions which concern maritime commerce evidently fall under the cognizance of the Federal tribunals.[28] Almost all these questions are connected with the interpretation of the law of nations, and in this respect they essentially interest the Union in relation to foreign powers. Moreover, as the sea is not included within the limits of any peculiar jurisdiction, the national courts can only hear causes which originate in maritime affairs.

The Constitution comprises under one head almost all the cases which by their very nature come within the limits of the Federal courts. The rule which it lays down is simple, but pregnant with an entire system of ideas, and with a vast multitude of facts. It declares that the judicial power of the Supreme Court shall extend to all cases in law and equity arising under the laws of the United States.

Two examples will put the intention of the legislator in the clearest light:

The Constitution prohibits the States from making laws on the value and circulation of money: If, notwithstanding this prohibition, a State passes a law of this kind, with which the interested parties refuse to comply because it is contrary to the Constitution, the case must come before a Federal court, because it arises under the laws of the United States. Again, if difficulties arise in the levying of import duties which have been voted by Congress,

the Federal court must decide the case, because it arises under the interpretation of a law of the United States.

This rule is in perfect accordance with the fundamental principles of the Federal Constitution. The Union, as it was established in 1789, possesses, it is true, a limited supremacy; but it was intended that within its limits it should form one and the same people.[29] Within those limits the Union is sovereign. When this point is established and admitted, the inference is easy; for if it be acknowledged that the United States constitute one and the same people within the bounds prescribed by their Constitution, it is impossible to refuse them the rights which belong to other nations. But it has been allowed, from the origin of society, that every nation has the right of deciding by its own courts those questions which concern the execution of its own laws. To this it is answered that the Union is in so singular a position that in relation to some matters it constitutes a people, and that in relation to all the rest it is a nonentity. But the inference to be drawn is, that in the laws relating to these matters the Union possesses all the rights of absolute sovereignty. The difficulty is to know what these matters are; and when once it is resolved (and we have shown how it was resolved, in speaking of the means of determining the jurisdiction of the Federal courts) no further doubt can arise; for as soon as it is established that a suit is Federal—that is to say, that it belongs to the share of sovereignty reserved by the Constitution to the Union—the natural consequence is that it should come within the jurisdiction of a Federal court.

Whenever the laws of the United States are attacked, or whenever they are resorted to in self-defence, the Federal courts must be appealed to. Thus the jurisdiction of the tribunals of the Union extends and narrows its limits exactly in the same ratio as the sovereignty of the Union augments or decreases. We have shown that the principal aim of the legislators of 1789 was to divide the sovereign authority into two parts. In the one they placed the

control of all the general interests of the Union, in the other the control of the special interests of its component States. Their chief solicitude was to arm the Federal Government with sufficient power to enable it to resist, within its sphere, the encroachments of the several States. As for these communities, the principle of independence within certain limits of their own was adopted in their behalf; and they were concealed from the inspection, and protected from the control, of the central Government. In speaking of the division of authority, I observed that this latter principle had not always been held sacred, since the States are prevented from passing certain laws which apparently belong to their own particular sphere of interest. When a State of the Union passes a law of this kind, the citizens who are injured by its execution can appeal to the Federal courts.

Thus the jurisdiction of the Federal courts extends not only to all the cases which arise under the laws of the Union, but also to those which arise under laws made by the several States in opposition to the Constitution. The States are prohibited from making ex post facto laws in criminal cases, and any person condemned by virtue of a law of this kind can appeal to the judicial power of the Union. The States are likewise prohibited from making laws which may have a tendency to impair the obligations of contracts.[30] If a citizen thinks that an obligation of this kind is impaired by a law passed in his State, he may refuse to obey it, and may appeal to the Federal courts.[31]

This provision appears to me to be the most serious attack upon the independence of the States. The rights awarded to the Federal Government for purposes of obvious national importance are definite and easily comprehensible; but those with which this last clause invests it are not either clearly appreciable or accurately defined. For there are vast numbers of political laws which influence the existence of obligations of contracts, which may thus furnish an easy pretext for the aggressions of the central authority.

I have shown what the privileges of the Federal courts are, and it is no less important to point out the manner in which they are exercised. The irresistible authority of justice in countries in which the sovereignty is undivided is derived from the fact that the tribunals of those countries represent the entire nation at issue with the individual against whom their decree is directed, and the idea of power is thus introduced to corroborate the idea of right. But this is not always the case in countries in which the sovereignty is divided; in them the judicial power is more frequently opposed to a fraction of the nation than to an isolated individual, and its moral authority and physical strength are consequently diminished. In Federal States the power of the judge is naturally decreased, and that of the justiciable parties is augmented. The aim of the legislator in confederate States ought therefore to be to render the position of the courts of justice analogous to that which they occupy in countries where the sovereignty is undivided; in other words, his efforts ought constantly to tend to maintain the judicial power of the confederation as the representative of the nation, and the justiciable party as the representative of an individual interest.

Every Government, whatever may be its constitution, requires the means of constraining its subjects to discharge their obligations, and of protecting its privileges from their assaults. As far as the direct action of the Government on the community is concerned, the Constitution of the United States contrived, by a master-stroke of policy, that the Federal courts, acting in the name of the laws, should only take cognizance of parties in an individual capacity. For, as it had been declared that the Union consisted of one and the same people within the limits laid down by the Constitution, the inference was that the Government created by this Constitution, and acting within these limits, was invested with all the privileges of a national Government, one of the principal of which is the right of transmitting its injunctions directly to the private citizen. When, for instance, the Union votes an impost,

it does not apply to the States for the levying of it, but to every American citizen in proportion to his assessment. The Supreme Court, which is empowered to enforce the execution of this law of the Union, exerts its influence not upon a refractory State, but upon the private taxpayer; and, like the judicial power of other nations, it is opposed to the person of an individual. It is to be observed that the Union chose its own antagonist; and as that antagonist is feeble, he is naturally worsted.

But the difficulty increases when the proceedings are not brought forward by but against the Union. The Constitution recognises the legislative power of the States; and a law so enacted may impair the privileges of the Union, in which case a collision is unavoidable between that body and the State which has passed the law: and it only remains to select the least dangerous remedy, which is very clearly deducible from the general principles I have before established.[32]

It may be conceived that, in the case under consideration, the Union might have sued the State before a Federal court, which would have annulled the act, and by this means it would have adopted a natural course of proceeding; but the judicial power would have been placed in open hostility to the State, and it was desirable to avoid this predicament as much as possible. The Americans hold that it is nearly impossible that a new law should not impair the interests of some private individual by its provisions: these private interests are assumed by the American legislators as the ground of attack against such measures as may be prejudicial to the Union, and it is to these cases that the protection of the Supreme Court is extended.

Suppose a State vends a certain portion of its territory to a company, and that a year afterward it passes a law by which the territory is otherwise disposed of, and that clause of the Constitution which prohibits laws impairing the obligation of contracts violated. When the purchaser under the second act appears to take possession, the pos-

sessor under the first act brings his action before the tribunals of the Union, and causes the title of the claimant to be pronounced null and void.[33] Thus, in point of fact, the judicial power of the Union is contesting the claims of the sovereignty of a State; but it only acts indirectly and upon a special application of detail: it attacks the law in its consequences, not in its principle, and it rather weakens than destroys it.

The last hypothesis that remained was that each State formed a corporation enjoying a separate existence and distinct civil rights, and that it could therefore sue or be sued before a tribunal. Thus a State could bring an action against another State. In this instance the Union was not called upon to contest a provincial law, but to try a suit in which a State was a party. This suit was perfectly similar to any other cause, except that the quality of the parties was different; and here the danger pointed out at the beginning of this chapter exists with less chance of being avoided. The inherent disadvantage of the very essence of Federal constitutions is that they engender parties in the bosom of the nation which present powerful obstacles to the free course of justice.

When we have successively examined in detail the organization of the Supreme Court, and the entire prerogatives which it exercises, we shall readily admit that a more imposing judicial power was never constituted by any people. The Supreme Court is placed at the head of all known tribunals, both by the nature of its rights and the class of justiciable parties which it controls.

In all the civilized countries of Europe the Government always has shown the greatest repugnance to allow the cases to which it was itself a party to be decided by the ordinary course of justice. This repugnance naturally attains its utmost height in an absolute Government; and, on the other hand, the privileges of the courts of justice are extended with the increasing liberties of the people: but no European nation has at present held that all ju-

dicial controversies, without regard to their origin, can be decided by the judges of common law.

In America this theory has been actually put in practice, and the Supreme Court of the United States is the sole tribunal of the nation. Its power extends to all the cases arising under laws and treaties made by the executive and legislative authorities, to all cases of admiralty and maritime jurisdiction, and in general to all points which affect the law of nations. It may even be affirmed that, although its constitution is essentially judicial, its prerogatives are almost entirely political. Its sole object is to enforce the execution of the laws of the Union; and the Union only regulates the relations of the Government with the citizens, and of the nation with Foreign Powers: the relations of citizens among themselves are almost exclusively regulated by the sovereignty of the States.

A second and still greater cause of the preponderance of this court may be adduced. In the nations of Europe the courts of justice are only called upon to try the controversies of private individuals; but the Supreme Court of the United States summons sovereign powers to its bar. When the clerk of the court advances on the steps of the tribunal, and simply says, "The State of New York versus the State of Ohio," it is impossible not to feel that the court which he addresses is no ordinary body; and when it is recollected that one of these parties represents one million, and the other two millions of men, one is struck by the responsibility of the seven judges whose decision is about to satisfy or to disappoint so large a number of their fellow-citizens.

The peace, the prosperity, and the very existence of the Union are vested in the hands of the seven judges. Without their active co-operation the Constitution would be a dead letter: the Executive appeals to them for assistance against the encroachments of the legislative powers; the legislature demands their protection from the designs of the Executive; they defend the Union from the disobedience of the States, the States from the exaggerated

claims of the Union, the public interest against the interests of private citizens, and the conservative spirit of order against the fleeting innovations of democracy. Their power is enormous, but it is clothed in the authority of public opinion. They are the all-powerful guardians of a people which respects law, but they would be impotent against popular neglect or popular contempt. The force of public opinion is the most intractable of agents, because its exact limits can not be defined; and it is not less dangerous to exceed than to remain below the boundary prescribed.

The Federal judges must not only be good citizens, and men possessed of that information and integrity which are indispensable to magistrates, but they must be statesmen—politicians, not unread in the signs of the times, not afraid to brave the obstacles which can be subdued, nor slow to turn aside such encroaching elements as may threaten the supremacy of the Union and the obedience which is due to the laws.

The President, who exercises a limited power, may err without causing great mischief in the State. Congress may decide amiss without destroying the Union, because the electoral body in which Congress originates may cause it to retract its decision by changing its members. But if the Supreme Court is ever composed of imprudent men or bad citizens, the Union may be plunged into anarchy or civil war.

The real cause of this danger, however, does not lie in the constitution of the tribunal, but in the very nature of Federal Governments. We have observed that in confederate peoples it is especially necessary to consolidate the judicial authority, because in no other nations do those independent persons who are able to cope with the social body exist in greater power or in a better condition to resist the physical strength of the Government. But the more a power requires to be strengthened, the more extensive and independent it must be made; and the dangers which its abuse may create are heightened by its in-

dependence and its strength. The source of the evil is not, therefore, in the constitution of the power, but in the constitution of those States which render its existence necessary.

The Federal Constitution differs essentially from that of the States in the ends which it is intended to accomplish, but in the means by which these ends are promoted a greater analogy exists between them. The objects of the Governments are different, but their forms are the same; and in this special point of view there is some advantage in comparing them together.

I am of opinion that the Federal Constitution is superior to all the Constitutions of the States, for several reasons.

The present Constitution of the Union was formed at a later period than those of the majority of the States, and it may have derived some ameliorations from past experience. But we shall be led to acknowledge that this is only a secondary cause of its superiority, when we recollect that eleven new States have been added to the American Confederation since the promulgation of the Federal Constitution, and that these new republics always have exaggerated rather than avoided the defects which existed in the former Constitutions.

The chief cause of the superiority of the Federal Constitution lay in the character of the legislators who composed it. At the time when it was formed the dangers of the Confederation were imminent, and its ruin seemed inevitable. In this extremity the people chose the men who most deserved the esteem, rather than those who had gained the affections, of the country. I have already observed that distinguished as almost all the legislators of the Union were for their intelligence, they were still more so for their patriotism. They had all been nurtured at a time when the spirit of liberty was braced by a continual struggle against a powerful and predominant authority. When the contest was terminated, while the excited passions of the populace persisted in warring with dangers which had

ceased to threaten them, these men stopped short in their career; they cast a calmer and more penetrating look upon the country which was now their own; they perceived that the war of independence was definitely ended, and that the only dangers which America had to fear were those which might result from the abuse of the freedom she had won. They had the courage to say what they believed to be true, because they were animated by a warm and sincere love of liberty; and they ventured to propose restrictions, because they were resolutely opposed to destruction.[34]

The greater number of the Constitutions of the States assign one year for the duration of the House of Representatives, and two years for that of the Senate; so that members of the legislative body are constantly and narrowly tied down by the slightest desires of their constituents. The legislators of the Union were of the opinion that excessive dependence of the legislature tended to alter the nature of the main consequences of the representative system, since it vested the source, not only of authority, but of government, in the people. They increased the length of the time for which the representatives were returned, in order to give them freer scope for the exercise of their own judgment.

The Federal Constitution, as well as the Constitutions of the different States, divided the legislative body into two branches. But in the States these two branches were composed of the same elements, and elected in the same manner. The consequence was that the passions and inclinations of the populace were as rapidly and as energetically represented in one chamber as in the other, and that laws were made with all the characteristics of violence and precipitation. By the Federal Constitution the two houses originate in like manner in the choice of the people; but the conditions of eligibility and the mode of election were changed, to the end that, if, as is the case in certain nations, one branch of the legislature represents the same interests as the other, it may at least represent a superior

degree of intelligence and discretion. A mature age was made one of the conditions of the senatorial dignity, and the Upper House was chosen by an elected assembly of a limited number of members.

To concentrate the whole social force in the hands of the legislative body is the natural tendency of democracies; for as this is the power which emanates the most directly from the people, it is made to participate most fully in the preponderating authority of the multitude, and it is naturally led to monopolize every species of influence. This concentration is at once prejudicial to a well-conducted administration, and favourable to the despotism of the majority. The legislators of the States frequently yielded to these democratic propensities, which were invariably and courageously resisted by the founders of the Union.

In the States the executive power is vested in the hands of a magistrate, who is apparently placed upon a level with the legislature, but who is in reality nothing more than the blind agent and the passive instrument of its decisions. He can derive no influence from the duration of his functions, which terminate with the revolving year, or from the exercise of prerogatives which can scarcely be said to exist. The legislature can condemn him to inaction by intrusting the execution of the laws to special committees of its own members, and can annul his temporary dignity by depriving him of his salary. The Federal Constitution vests all the privileges and all the responsibility of the executive power in a single individual. The duration of the presidency is fixed at four years; the salary of the individual who fills that office can not be altered during the term of his functions; he is protected by a body of official dependents, and armed with a suspensive veto. In short, every effort was made to confer a strong and independent position upon the executive authority within the limits which had been prescribed to it.

In the Constitutions of all the States the judicial power is that which remains the most independent of the legislative authority; nevertheless, in all the States the legisla-

ture has reserved to itself the right of regulating the emoluments of the judges, a practice which necessarily subjects these magistrates to its immediate influence. In some States the judges are only temporarily appointed, which deprives them of a great portion of their power and their freedom. In others the legislative and judicial powers are entirely confounded; thus the Senate of New York, for instance, constitutes in certain cases the superior court of the State. The Federal Constitution, on the other hand, carefully separates the judicial authority from all external influences; and it provides for the independence of the judges, by declaring that their salary shall not be altered, and that their functions shall be inalienable.

The practical consequences of these different systems may easily be perceived. An attentive observer will soon remark that the business of the Union is incomparably better conducted than that of any individual State. The conduct of the Federal Government is more fair and more temperate than that of the States, its designs are more fraught with wisdom, its projects are more durable and more skilfully combined, its measures are put into execution with more vigour and consistency.

To recapitulate the substance of the foregoing in a few words: The existence of democracies is threatened by two dangers, viz., the complete subjection of the legislative body to the caprices of the electoral body, and the concentration of all the powers of the Government in the legislative authority. The growth of these evils has been encouraged by the policy of the legislators of the States, but it has been resisted by the legislators of the Union by every means which lay within their control.

The United States of America do not afford either the first or the only instance of confederate States, several of which have existed in modern Europe, without adverting to those of antiquity. Switzerland, the Germanic Empire, and the Republic of the United Provinces either have been or still are confederations. In studying the constitutions of these different countries, the politician is surprised to

observe that the powers with which they invested the Federal Government are nearly identical with the privileges awarded by the American Constitution to the Government of the United States. They confer upon the central power the same rights of making peace and war, of raising money and troops, and of providing for the general exigencies and the common interests of the nation. Nevertheless the Federal Government of these different peoples has always been as remarkable for its weakness and inefficiency as that of the Union is for its vigorous and enterprising spirit. Again, the first American Confederation perished through the excessive weakness of its Government; and this weak Government was, notwithstanding, in possession of rights even more extensive than those of the Federal Government of the present day. But the more recent Constitution of the United States contains certain principles which exercise a most important influence, although they do not at once strike the observer.

This Constitution, which may at first sight be confounded with the Federal constitutions which preceded it, rests upon a novel theory, which may be considered as a great invention in modern political science. In all the confederations which had been formed before the American Constitution of 1789 the allied States agreed to obey the injunctions of a Federal Government; but they reserved to themselves the right of ordaining and enforcing the execution of the laws of the Union. The American States which combined in 1789 agreed that the Federal Government should not only dictate the laws, but that it should execute its own enactments. In both cases the right is the same, but the exercise of the right is different; and this alteration produced the most momentous consequences.

In all the confederations which had been formed before the American Union the Federal Government demanded its supplies at the hands of the separate Governments; and if the measure it prescribed was onerous to any one of those bodies means were found to evade its claims: if

the State was powerful, it had recourse to arms; if it was weak, it connived at the resistance which the law of the Union, its sovereign, met with, and resorted to inaction under the plea of inability. Under these circumstances one of the two alternatives has invariably occurred: either the most preponderant of the allied peoples has assumed the privileges of the Federal authority and ruled all the States in its name,[35] or the Federal Government has been abandoned by its natural supporters, anarchy has arisen between the confederates, and the Union has lost all powers of action.[36]

In America the subjects of the Union are not States, but private citizens: the national Government levies a tax, not upon the State of Massachusetts, but upon each inhabitant of Massachusetts. All former confederate governments presided over communities, but that of the Union rules individuals; its force is not borrowed, but self-derived; and it is served by its own civil and military officers, by its own army, and its own courts of justice. It can not be doubted that the spirit of the nation, the passions of the multitude, and the provincial prejudices of each State tend singularly to diminish the authority of a Federal authority thus constituted, and to facilitate the means of resistance to its mandates; but the comparative weakness of a restricted sovereignty is an evil inherent in the Federal system. In America, each State has fewer opportunities of resistance and fewer temptations to non-compliance; nor can such a design be put into execution (if indeed it be entertained) without an open violation of the laws of the Union, a direct interruption of the ordinary course of justice, and a bold declaration of revolt; in a word, without taking a decisive step which men hesitate to adopt.

In all former confederations the privileges of the Union furnished more elements of discord than of power, since they multiplied the claims of the nation without augmenting the means of enforcing them: and in accordance with this fact it may be remarked that the real weakness of

Federal governments has almost always been in the exact ratio of their nominal power. Such is not the case in the American Union, in which, as in ordinary governments, the Federal Government has the means of enforcing all it is empowered to demand.

The human understanding more easily invents new things than new words, and we are thence constrained to employ a multitude of improper and inadequate expressions. When several nations form a permanent league and establish a supreme authority, which, although it has not the same influence over the members of the community as a national government, acts upon each of the confederate States in a body, this government, which is so essentially different from all others, is denominated a Federal one. Another form of society is afterward discovered, in which several peoples are fused into one and the same nation with regard to certain common interests, although they remain distinct, or at least only confederate, with regard to all their other concerns. In this case the central power acts directly upon those whom it governs, whom it rules, and whom it judges, in the same manner as, but in a more limited circle than, a national government. Here the term Federal Government is clearly no longer applicable to a state of things which must be styled an incomplete national government: a form of government has been found out which is neither exactly national nor Federal; but no further progress has been made, and the new word which will one day designate this novel invention does not yet exist.

The absence of this new species of confederation has been the cause which has brought all Unions to civil war, to subjection, or to a stagnant apathy; and the peoples which formed these leagues have been either too dull to discern, or too pusillanimous to apply, this great remedy. The American Confederation perished by the same defects.

But the confederate States of America had been long accustomed to form a portion of one empire before they

had won their independence; they had not contracted the habit of governing themselves, and their national prejudices had not taken deep root in their minds. Superior to the rest of the world in political knowledge, and sharing that knowledge equally among themselves, they were little agitated by the passions which generally oppose the extension of Federal authority in a nation, and those passions were checked by the wisdom of the chief citizens. The Americans applied the remedy with prudent firmness as soon as they were conscious of the evil; they amended their laws, and they saved their country.

In small nations the scrutiny of society penetrates into every part, and the spirit of improvement enters into the most trifling details; as the ambition of the people is necessarily checked by its weakness, all the efforts and resources of the citizens are turned to the internal benefit of the community, and are not likely to evaporate in the fleeting breath of glory. The desires of every individual are limited, because extraordinary faculties are rarely to be met with. The gifts of an equal fortune render the various conditions of life uniform, and the manners of the inhabitants are orderly and simple. Thus, if one estimate the gradations of popular morality and enlightenment, we shall generally find that in small nations there are more persons in easy circumstances, a more numerous population, and a more tranquil state of society, than in great empires.

When tyranny is established in the bosom of a small nation, it is more galling than elsewhere, because, as it acts within a narrow circle, every point of that circle is subject to its direct influence. It supplies the place of those great designs which it can not entertain by a violent or an exasperating interference in a multitude of minute details; and it leaves the political world, to which it properly belongs, to meddle with the arrangements of domestic life. Tastes as well as actions are to be regulated at its pleasure; and the families of the citizens as well as the affairs of the State are to be governed by its decisions. This

invasion of rights occurs, however, but seldom, and freedom is in truth the natural state of small communities. The temptations which the Government offers to ambition are too weak, and the resources of private individuals are too slender, for the sovereign power easily to fall within the grasp of a single citizen; and should such an event have occurred, the subjects of the State can without difficulty overthrow the tyrant and his oppression by a simultaneous effort.

Small nations have therefore ever been the cradle of political liberty; and the fact that many of them have lost their immunities by extending their dominion shows that the freedom they enjoyed was more a consequence of the inferior size than of the character of the people.

The history of the world affords no instance of a great nation retaining the form of republican government for a long series of years,[37] and this has led to the conclusion that such a state of things is impracticable. For my own part, I can not but censure the imprudence of attempting to limit the possible and to judge the future on the part of a being who is hourly deceived by the most palpable realities of life, and who is constantly taken by surprise in the circumstances with which he is most familiar. But it may be advanced with confidence that the existence of a great republic will always be exposed to far greater perils than that of a small one.

All the passions which are most fatal to republican institutions spread with an increasing territory, while the virtues which maintain their dignity do not augment in the same proportion. The ambition of the citizens increases with the power of the State; the strength of parties with the importance of the ends they have in view; but that devotion to the common weal which is the surest check on destructive passions is not stronger in a large than in a small republic. It might, indeed, be proved without difficulty that it is less powerful and less sincere. The arrogance of wealth and the dejection of wretchedness, capital cities of unwonted extent, a lax morality,

a vulgar egotism, and a great confusion of interests, are the dangers which almost invariably arise from the magnitude of States. But several of these evils are scarcely prejudicial to a monarchy, and some of them contribute to maintain its existence. In monarchical States the strength of the government is its own; it may use, but it does not depend on, the community, and the authority of the prince is proportioned to the prosperity of the nation; but the only security which a republican government possesses against these evils lies in the support of the majority. This support is not, however, proportionably greater in a large republic than it is in a small one; and thus, while the means of attack perpetually increase both in number and in influence, the power of resistance remains the same, or it may rather be said to diminish, since the propensities and interests of the people are diversified by the increase of the population, and the difficulty of forming a compact majority is constantly augmented. It has been observed, moreover, that the intensity of human passions is heightened, not only by the importance of the end which they propose to attain, but by the multitude of individuals who are animated by them at the same time. Every one has had occasion to remark that his emotions in the midst of a sympathizing crowd are far greater than those which he would have felt in solitude. In great republics the impetus of political passion is irresistible, not only because it aims at gigantic purposes, but because it is felt and shared by millions of men at the same time.

It may therefore be asserted as a general proposition that nothing is more opposed to the well-being and the freedom of man than vast empires. Nevertheless it is important to acknowledge the peculiar advantages of great States. For the very reason which renders the desire of power more intense in these communities than among ordinary men, the love of glory is also more prominent in the hearts of a class of citizens, who regard the applause of a great people as a reward worthy of their exertions, and an elevating encouragement to man. If we would learn

why it is that great nations contribute more powerfully to the spread of human improvement than small States, we shall discover an adequate cause in the rapid and energetic circulation of ideas, and in those great cities which are the intellectual centres where all the rays of human genius are reflected and combined. To this it may be added that most important discoveries demand a display of national power which the Government of a small State is unable to make; in great nations the Government entertains a greater number of general notions, and is more completely disengaged from the routine of precedent and the egotism of local prejudice; its designs are conceived with more talent, and executed with more boldness.

In time of peace the well-being of small nations is undoubtedly more general and more complete, but they are apt to suffer more acutely from the calamities of war than those great empires whose distant frontiers may for ages avert the presence of the danger from the mass of the people, which is therefore more frequently afflicted than ruined by the evil.

But in this matter, as in many others, the argument derived from the necessity of the case predominates over all others. If none but small nations existed, I do not doubt that mankind would be more happy and more free; but the existence of great nations is unavoidable.

This consideration introduces the element of physical strength as a condition of national prosperity. It profits a people but little to be affluent and free if it is perpetually exposed to be pillaged or subjugated; the number of its manufactures and the extent of its commerce are of small advantage if another nation has the empire of the seas and gives the law in all the markets of the globe. Small nations are often impoverished, not because they are small, but because they are weak; the great empires prosper less because they are great than because they are strong. Physical strength is therefore one of the first conditions of the happiness and even of the existence of nations. Hence it occurs that, unless very peculiar circumstances

intervene, small nations are always united to large empires in the end, either by force or by their own consent: yet I am unacquainted with a more deplorable spectacle than that of a people unable either to defend or to maintain its independence.

The Federal system was created with the intention of combining the different advantages which result from the greater and the lesser extent of nations; and a single glance over the United States of America suffices to discover the advantages which they have derived from its adoption.

In great centralized nations the legislator is obliged to impart a character of uniformity to the laws which does not always suit the diversity of customs and of districts; as he takes no cognizance of special cases, he can only proceed upon general principles; and the population is obliged to conform to the exigencies of the legislation, since the legislation can not adapt itself to the exigencies and the customs of the population, which is the cause of endless trouble and misery. This disadvantage does not exist in confederations. Congress regulates the principal measures of the national Government, and all the details of the administration are reserved to the provincial legislatures. It is impossible to imagine how much this division of sovereignty contributes to the well-being of each of the States which compose the Union. In these small communities, which are never agitated by the desire of aggrandizement or the cares of self-defence, all public authority and private energy is employed in internal amelioration. The central government of each State, which is in immediate juxtaposition to the citizens, is daily apprised of the wants which arise in society; and new projects are proposed every year, which are discussed either at town meetings or by the legislature of the State, and which are transmitted by the press to stimulate the zeal and to excite the interest of the citizens. This spirit of amelioration is constantly alive in the American republics, without compromising their tranquility; the ambition of power yields to the less

refined and less dangerous love of comfort. It is generally believed in America that the existence and the permanence of the republican form of government in the New World depend upon the existence and the permanence of the Federal system; and it is not unusual to attribute a large share of the misfortunes which have befallen the new States of South America to the injudicious erection of great republics, instead of a divided and confederate sovereignty.

It is incontestably true that the love and the habits of republican government in the United States were engendered in the townships and in the provincial assemblies. In a small State, like that of Connecticut for instance, where cutting a canal or laying down a road is a momentous political question, where the State has no army to pay and no wars to carry on, and where much wealth and much honour can not be bestowed upon the chief citizens, no form of government can be more natural or more appropriate than that of a republic. But it is this same republican spirit, it is these manners and customs of a free people, which are engendered and nurtured in the different States, to be afterward applied to the country at large. The public spirit of the Union is, so to speak, nothing more than an abstract of the patriotic zeal of the provinces. Every citizen of the United States transfuses his attachment to his little republic in the common store of American patriotism. In defending the Union he defends the increasing prosperity of his own district, the right of conducting its affairs, and the hope of causing measures of improvement to be adopted which may be favourable to his own interests; and these are motives which are wont to stir men more readily than the general interests of the country and the glory of the nation.

On the other hand, if the temper and the manners of the inhabitants especially fitted them to promote the welfare of a great republic, the Federal system smoothed the obstacles which they might have encountered. The confederation of all the American States presents none of the

ordinary disadvantages resulting from great agglomerations of men. The Union is a great republic in extent, but the paucity of objects for which its Government provides assimilates it to a small State. Its acts are important, but they are rare. As the sovereignty of the Union is limited and incomplete, its exercise is not incompatible with liberty; for it does not excite those insatiable desires of fame and power which have proved so fatal to great republics. As there is no common centre to the country, vast capital cities, colossal wealth, abject poverty, and sudden revolutions are alike unknown; and political passion, instead of spreading over the land like a torrent of desolation, spends its strength against the interests and the individual passions of every State.

Nevertheless, all commodities and ideas circulate throughout the Union as freely as in a country inhabited by one people. Nothing checks the spirit of enterprise. Government avails itself of the assistance of all who have talents or knowledge to serve it. Within the frontiers of the Union the profoundest peace prevails, as within the heart of some great empire; abroad, it ranks with the most powerful nations of the earth; two thousand miles of coast are open to the commerce of the world; and as it possesses the keys of the globe, its flag is respected in the most remote seas. The Union is as happy and as free as a small people, and as glorious and as strong as a great nation.

When a legislator succeeds, after persevering efforts, in exercising an indirect influence upon the destiny of nations, his genius is lauded by mankind, while, in point of fact, the geographical position of the country which he is unable to change, a social condition which arose without his co-operation, manners and opinions which he can not trace to their source, and an origin with which he is unacquainted, exercise so irresistible an influence over the courses of society that he is himself borne away by the current, after an ineffectual resistance. Like the navigator, he may direct the vessel which bears him along, but he

can neither change its structure, nor raise the winds, nor lull the waters which swell beneath him.

I have shown the advantages which the Americans derive from their Federal system; it remains for me to point out the circumstances which rendered that system practicable, as its benefits are not to be enjoyed by all nations. The incidental defects of the Federal system which originate in the laws may be corrected by the skill of the legislator, but there are further evils inherent in the system which can not be counteracted by the peoples which adopt it. These nations must therefore find the strength necessary to support the natural imperfections of their Government.

The most prominent evil of all Federal systems is the very complex nature of the means they employ. Two sovereignties are necessarily in presence of each other. The legislator may simplify and equalize the action of these two sovereignties, by limiting each of them to a sphere of authority accurately defined; but he can not combine them into one, or prevent them from coming into collision at certain points. The Federal system therefore rests upon a theory which is necessarily complicated, and which demands the daily exercise of a considerable share of discretion on the part of those it governs.

A proposition must be plain to be adopted by the understanding of a people. A false notion, which is clear and precise will always meet with a greater number of adherents in the world than a true principle which is obscure or involved. Hence it arises that parties, which are like small communities in the heart of the nation, invariably adopt some principle or some name as a symbol, which very inadequately represents the end they have in view and the means which are at their disposal, but without which they could neither act nor subsist. The Governments which are founded upon a single principle or a single feeling which is easily defined are perhaps not the best, but they are unquestionably the strongest and the most durable in the world.

In examining the Constitution of the United States, which is the most perfect Federal Constitution that ever existed, one is startled, on the other hand, at the variety of information and the excellence of discretion which it presupposes in the people whom it is meant to govern. The Government of the Union depends entirely upon legal fictions; the Union is an ideal nation which only exists in the mind, and whose limits and extent can only be discerned by the understanding.

When once the general theory is comprehended, numberless difficulties remain to be solved in its application; for the sovereignty of the Union is so involved in that of the States that it is impossible to distinguish its boundaries at the first glance. The whole structure of the Government is artificial and conventional; and it would be ill adapted to a people which has not been long accustomed to conduct its own affairs, or to one in which the science of politics has not descended to the humblest classes of society. I have never been more struck by the good sense and the practical judgment of the Americans than in the ingenious devices by which they elude the numberless difficulties resulting from their Federal Constitution. I scarcely ever met with a plain American citizen who could not distinguish, with surprising facility, the obligations created by the laws of Congress from those created by the laws of his own State; and who, after having discriminated between the matters which come under the cognizance of the Union and those which the local legislature is competent to regulate, could not point out the exact limit of the several jurisdictions of the Federal Courts and the tribunals of the State.

The Constitution of the United States is like those exquisite productions of human industry which insure wealth and renown to their inventors, but which are profitless in any other hands. This truth is exemplified by the condition of Mexico at the present time. The Mexicans were desirous of establishing a Federal system, and they took the Federal Constitution of their neighbours the

Anglo-Americans as their model, and copied it with considerable accuracy.[38] But although they had borrowed the letter of the law, they were unable to create or to introduce the spirit and the sense which give it life. They were involved in ceaseless embarrassments between the mechanism of their double Government; the sovereignty of the States and that of the Union perpetually exceeded their respective privileges, and entered into collision; and to the present day Mexico is alternately the victim of anarchy and the slave of military despotism.

The second and the most fatal of all the defects I have alluded to, and that which I believe to be inherent in the Federal system, is the relative weakness of the Government of the Union. The principle upon which all confederations rest is that of a divided sovereignty. The legislator may render this partition less perceptible, he may even conceal it for a time from the public eye, but he can not prevent it from existing, and a divided sovereignty must always be less powerful than an entire supremacy. The reader has seen in the remarks I have made on the Constitution of the United States that the Americans have displayed singular ingenuity in combining the restriction of the power of the Union within the narrow limits of a Federal Government with the semblance and, to a certain extent, with the force of a national Government. By this means the legislators of the Union have succeeded in diminishing, though not in counteracting, the natural danger of confederations.

It has been remarked that the American Government does not apply itself to the States, but that it immediately transmits its injunctions to the citizens, and compels them as isolated individuals to comply with its demands. But if the Federal law were to clash with the interests and the prejudices of a State, it might be feared that all the citizens of that State would conceive themselves to be interested in the cause of a single individual who should refuse to obey. If all the citizens of the State were aggrieved at the same time and in the same manner by the authority

of the Union, the Federal Government would vainly attempt to subdue them individually; they would instinctively unite in a common defence, and they would derive a ready prepared organization from the share of sovereignty which the institution of their State allows them to enjoy. Fiction would give way to reality, and an organized portion of the territory might then contest the central authority. The same observation holds good with regard to the Federal jurisdiction. If the courts of the Union violated an important law of a State in a private case, the real, if not the apparent, contest would arise between the aggrieved State represented by a citizen and the Union represented by its courts of justice.[39]

He would have but a partial knowledge of the world who should imagine that it is possible, by the aid of legal fictions, to prevent men from finding out and employing those means of gratifying their passions which have been left open to them; and it may be doubted whether the American legislators, when they rendered a collision between the two sovereigns less probable, destroyed the cause of such a misfortune. But it may even be affirmed that they were unable to insure the preponderance of the Federal element in a case of this kind. The Union is possessed of money and of troops, but the affections and the prejudices of the people are in the bosom of the States. The sovereignty of the Union is an abstract being, which is connected with but few external objects; the sovereignty of the States is hourly perceptible, easily understood, constantly active; and if the former is of recent creation, the latter is coeval with the people itself. The sovereignty of the Union is factitious, that of the States is natural, and derives its existence from its own simple influence, like the authority of a parent. The supreme power of the nation only affects a few of the chief interests of society; it represents an immense but remote country, and claims a feeling of patriotism which is vague and ill defined; but the authority of the States controls every individual citizen at every hour and in all circumstances;

it protects his property, his freedom, and his life; and when we recollect the traditions, the customs, the prejudices of local and familiar attachment with which it is connected, we can not doubt of the superiority of a power which is interwoven with every circumstance that renders the love of one's native country instinctive in the human heart.

Since legislators are unable to obviate such dangerous collisions as occur between the two sovereignties which coexist in the Federal system, their first object must be, not only to dissuade the confederate States from warfare, but to encourage such institutions as may promote the maintenance of peace. Hence it results that the Federal compact can not be lasting unless there exists in the communities which are leagued together a certain number of inducements to union which render their common dependence agreeable, and the task of the Government light, and that system can not succeed without the presence of favourable circumstances added to the influence of good laws. All the peoples which have ever formed a confederation have been held together by a certain number of common interests, which served as the intellectual ties of association.

But the sentiments and the principles of man must be taken into consideration as well as his immediate interests. A certain uniformity of civilization is not less necessary to the durability of a confederation than a uniformity of interests in the States which compose it. In Switzerland the difference which exists between the Canton of Uri and the Canton of Vaud is equal to that between the fifteenth and the nineteenth centuries; and, properly speaking, Switzerland has never possessed a Federal Government. The union between these two cantons only subsists upon the map, and their discrepancies would soon be perceived if an attempt were made by a central authority to prescribe the same laws to the whole territory.

One of the circumstances which most powerfully contribute to support the Federal Government in America is that the States have not only similar interests, a common

origin, and a common tongue, but that they are also arrived at the same stage of civilization; which almost always renders a union feasible. I do not know of any European nation, however small it may be, which does not present less uniformity in its different provinces than the American people, which occupies a territory as extensive as one half of Europe. The distance from the State of Maine to that of Georgia is reckoned at about one thousand miles; but the difference between the civilization of Maine and that of Georgia is slighter than the difference between the habits of Normandy and those of Brittany. Maine and Georgia, which are placed at the opposite extremities of a great empire, are consequently in the natural possession of more real inducements to form a confederation than Normandy and Brittany, which are only separated by a bridge.

The geographical position of the country contributed to increase the facilities which the American legislators derived from the manners and customs of the inhabitants; and it is to this circumstance that the adoption and the maintenance of the Federal system are mainly attributable.

The most important occurrence which can mark the annals of a people is the breaking out of a war. In war a people struggles with the energy of a single man against foreign nations in the defence of its very existence. The skill of a Government, the good sense of the community, and the natural fondness which men entertain for their country, may suffice to maintain peace in the interior of a district, and to favour its internal prosperity; but a nation can only carry on a great war at the cost of more numerous and more painful sacrifices; and to suppose that a great number of men will of their own accord comply with these exigencies of the State is to betray an ignorance of mankind. All the peoples which have been obliged to sustain a long and serious warfare have consequently been led to augment the power of their Government. Those which have not succeeded in this attempt have been sub-

jugated. A long war almost always places nations in the wretched alternative of being abandoned to ruin by defeat or to despotism by success. War therefore renders the symptoms of the weakness of a Government most palpable and most alarming; and I have shown that the inherent defect of Federal Governments is that of being weak.

The Federal system is not only deficient in every kind of centralized administration, but the central Government itself is imperfectly organized, which is invariably an influential cause of inferiority when the nation is opposed to other countries which are themselves governed by a single authority. In the Federal Constitution of the United States, by which the central Government possesses more real force, this evil is still extremely sensible. An example will illustrate the case to the reader.

The Constitution confers upon Congress the right of "calling forth militia to execute the laws of the Union, suppress insurrections, and repel invasions"; and another article declares that the President of the United States is the commander-in-chief of the militia. In the War of 1812 the President ordered the militia of the Northern States to march to the frontiers; but Connecticut and Massachusetts, whose interests were impaired by the war, refused to obey the command. They argued that the Constitution authorizes the Federal Government to call forth the militia in cases of insurrection or invasion, but that in the present instance there was neither invasion nor insurrection. They added, that the same Constitution which conferred upon the Union the right of calling forth the militia reserved to the States that of naming the officers; and that consequently (as they understood the clause) no officer of the Union had any right to command the militia, even during war, except the President in person; and in this case they were ordered to join an army commanded by another individual. These absurd and pernicious doctrines received the sanction not only of the Governors and the legislative bodies, but also of the courts of justice in

both States; and the Federal Government was constrained to raise elsewhere the troops which it required.[40]

The only safeguard which the American Union, with all the relative perfection of its laws, possesses against the dissolution which would be produced by a great war, lies in its probable exemption from that calamity. Placed in the centre of an immense continent, which offers a boundless field for human industry, the Union is almost as much insulated from the world as if its frontiers were girt by the ocean. Canada contains only a million of inhabitants, and its population is divided into two inimical nations. The rigour of the climate limits the extension of its territory, and shuts up its ports during the six months of winter. From Canada to the Gulf of Mexico a few savage tribes are to be met with, which retire, perishing in their retreat, before six thousand soldiers. To the South, the Union has a point of contact with the empire of Mexico; and it is thence that serious hostilities may one day be expected to arise. But for a long while to come the uncivilized state of the Mexican community, the depravity of its morals, and its extreme poverty, will prevent that country from ranking high among nations. As for the Powers of Europe, they are too distant to be formidable.

The great advantage of the United States does not, then, consist in a Federal Constitution which allows them to carry on great wars, but in a geographical position which renders such enterprises extremely improbable.

No one can be more inclined than I am myself to appreciate the advantages of the Federal system, which I hold to be one of the combinations most favourable to the prosperity and freedom of man. I envy the lot of those nations which have been enabled to adopt it; but I can not believe that any confederate peoples could maintain a long or an equal contest with a nation of similar strength in which the Government should be centralized. A people which should divide its sovereignty into fractional powers, in the presence of the great military mon-

archies of Europe, would, in my opinion, by that very act, abdicate its power, and perhaps its existence and its name. But such is the admirable position of the New World that man has no other enemy than himself; and that, in order to be happy and to be free, it suffices to seek the gifts of prosperity and the knowledge of freedom.

NOTES

[1] See the articles of the first Confederation, formed in 1778. This constitution was not adopted by all the States until 1781. See also the analysis given of this constitution in "The Federalist" from No. 15 to No. 22, inclusive, and Story's "Commentaries on the Constitution of the United States," pp. 85–115.

[2] Congress made this declaration on February 21, 1787.

[3] It consisted of fifty-five members: Washington, Madison, Hamilton, and the two Morrises were among the number.

[4] It was not adopted by the legislative bodies, but representatives were elected by the people for this sole purpose; and the new Constitution was discussed at length in each of these assemblies.

[5] See the Amendment to the Federal Constitution: "Federalist," No. 32; Story, p. 711; Kent's "Commentaries," vol. i, p. 364.

It is to be observed that whenever the exclusive right of regulating certain matters is not reserved to Congress by the Constitution, the States may take up the affair until it is brought before the National Assembly. For instance, Congress has the right of making a general law on bankruptcy, which, however, it neglects to do. Each State is then at liberty to make a law for itself. This point has been established by discussion in the law-courts, and may be said to belong more properly to jurisprudence.

[6] The action of this court is indirect, as we shall show hereafter.

[7] It is thus that "The Federalist," No. 45, explains the division of supremacy between the Union and the States: "The powers delegated by the Constitution to the Federal Government are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the internal order and prosperity of the State." I shall often have occasion to quote "The Federalist" in this work. When the bill which has since become the Constitution of the United States was submitted to the approval of the people, and the discussions were still pending, three men, who had already acquired a portion of that celebrity which they have since enjoyed—John Jay, Hamilton, and Madison—formed an association with the intention of explaining to the nation the advantages of the measure which was proposed. With this view they published a series of articles in the shape of a journal, which now form a complete treatise. They entitled their journal "The Federalist," a name

which has been retained in the work. "The Federalist" is an excellent book, which ought to be familiar to the statesmen of all countries, although it especially concerns America.

[8] See Constitution, sect. 8; "Federalist," Nos. 41 and 42; Kent's "Commentaries," vol. i, p. 207; Story, pp. 358–382; 409–426.

[9] Several other privileges of the same kind exist, such as that which empowers the Union to legislate on bankruptcy, to grant patents, and other matters in which its intervention is clearly necessary.

[10] Even in these cases its interference is indirect. The Union interferes by means of the tribunals, as will be shown hereafter.

[11] Federal Constitution, sect. 10, art. 1.

[12] Constitution, sects. 8, 9, and 10; "Federalist," Nos. 30–36; 41–44; Kent's "Commentaries," vol. i, pp. 207 and 381; Story, pp. 329 and 514.

[13] Every ten years Congress fixes anew the number of representatives which each State is to furnish. The total number was 69 in 1789, and 240 in 1833. (See "American Almanac," 1834, p. 194.) The Constitution decided that there should not be more than 1 representative to every 30,000 persons; but no minimum was fixed on. The Congress has not thought fit to augment the number of representatives in proportion to the increase of population. The first Act which was passed on the subject (April 14, 1792: see "Laws of the United States" by Story, vol. i, p. 235) decided that there should be 1 representative for every 33,000 inhabitants. The last Act, which was passed in 1832, fixes the proportion at 1 for 48,000. The population represented is composed of all the freemen and of three-fifths of the slaves.

[The present ratio of representation, based upon the United States census for 1890, is one representative to every 173,901 inhabitants. Ninety Senators and three hundred and fifty Representatives compose the Fifty-sixth Congress (1899–1901).]

[14] See "The Federalist," Nos. 52–56; Story, pp. 199–314; Constitution of the United States, sections 2 and 3.

[15] See "The Federalist," Nos. 67–77; Constitution of the United States, art. 2; Story, pp. 315; 615–780; Kent's "Commentaries," p. 255.

[16] The Constitution had left it doubtful whether the President was obliged to consult the Senate in the removal as well as in the appointment of Federal officers. "The Federalist" (No. 77) seemed to establish the affirmative; but in 1789 Congress formally decided that, as the President was responsible for his actions, he ought not to be forced to employ agents who had forfeited his esteem. See Kent's "Commentaries," vol. i. p. 289.

[17] The sums annually paid by the State to these officers amount to 200,000,000 francs (eight millions sterling).

[18] This number is extracted from the "National Calendar" for 1833. The "National Calendar" is an American almanac which contains the names of all the Federal officers. It results from this comparison that the King of France has eleven times as many places at his disposal as the President, although the population of France is not much more than double that of the Union.

[19] As many as it sends members to Congress. The number of electors at the election of 1833 was 288.

[20] The electors of the same State assemble, but they transmit to the central Government the list of their individual votes, and not the mere result of the vote of the majority.

[21] In this case it is the majority of the States, and not the majority of the members, which decides the question; so that New York has not more influence in the debate than Rhode Island. Thus the citizens of the Union are consulted first as members of one and the same community; and, if they can not agree, recourse is had to the division of the States, each of which has a separate and independent vote. This is one of the singularities of the Federal Constitution which can only be explained by the jar of conflicting interests.

[22] Jefferson, in 1801, was not elected until the thirty-sixth time of balloting.

[23] See Chapter VI, entitled "Judicial Power in the United States." This chapter explains the general principles of the American theory of judicial institutions. See also "The Federal Constitution," Art. 3. See "The Federalist," Nos. 78–83; and a work entitled "Constitutional Law," being a view of the practice and jurisdiction of the Courts of the United States, by Thomas Sergeant. See Story, pp. 134, 162, 489, 511, 581, 668, and the organic law of September 24, 1789, in the "Collection of the Laws of the United States," by Story, vol. i, p. 53.

[24] Federal laws are those which most require courts of justice, and those at the same time which have most rarely established them. The reason is that confederations have usually been formed by independent States, which entertained no real intention of obeying the central Government, and which very readily ceded the right of command to the Federal executive, and very prudently reserved the right of non-compliance to themselves.

[25] The Union was divided into districts, in each of which a resident Federal judge was appointed, and the court in which he presided was termed a "District Court." Each of the judges of the Supreme Court annually visits a certain portion of the Republic, in order to try the most important causes upon the spot; the court presided over by this magistrate is styled a "Circuit Court." Lastly, all the most serious cases of litigation are brought before the Supreme Court, which holds a solemn session once a year, at which all the judges of the Circuit Courts must attend. The jury was introduced into the Federal Courts in the same manner, and in the same cases, as into the courts of the States.

It will be observed that no analogy exists between the Supreme Court of the United States and the French Cour de Cassation, since the latter only hears appeals on questions of law. The Supreme Court decides upon the evidence of the fact as well as upon the law of the case, whereas the Cour de Cassation does not pronounce a decision of its own, but refers the cause to the arbitration of another tribunal. See the law of September 24, 1789, "Laws of the United States," by Story, vol. i. p. 53.

[26] In order to diminish the number of these suits, it was decided that in a great many Federal causes the courts of the States should be empowered to decide conjointly with those of the Union, the losing party having then a right of appeal to the Supreme Court of the United States. The Supreme Court of Virginia contested the right of the Supreme Court of the United

States to judge an appeal from its decisions, but unsuccessfully. See "Kent's Commentaries," vol. i, p. 300; 370, et seq.; "Story's Commentaries," p. 646; and "The Organic Law of the United States," vol. i, p. 35.

[27] The Constitution also says that the Federal courts shall decide "controversies between a State and the citizens of another State." And here a most important question of a constitutional nature arose, which was, whether the jurisdiction given by the Constitution in cases in which a State is a party extended to suits brought against a State as well as by it, or was exclusively confined to the latter. The question was most elaborately considered in the case of Chisholm vs. Georgia, and was decided by the majority of the Supreme Court in the affirmative. The decision created general alarm among the States, and an amendment was proposed and ratified by which the power was entirely taken away so far as it regards suits brought against a State. See "Story's Commentaries," p. 624, or in the large edition, § 1677.

[28] As, for instance, all cases of piracy.

[29] This principle was in some measure restricted by the introduction of the several States as independent powers into the Senate, and by allowing them to vote separately in the House of Representatives when the President is elected by that body. But these are exceptions, and the contrary principle is the rule.

[30] It is perfectly clear, says Mr. Story ("Commentaries," p. 503, or in the large edition, § 1379), that any law which enlarges, abridges, or in any manner changes the intention of the parties, resulting from the stipulations in the contract, necessarily impairs it. He gives in the same place a very long and careful definition of what is understood by a contract in Federal jurisprudence. A grant made by the State to a private individual, and accepted by him, is a contract, and can not be revoked by any future law. A charter granted by the State to a company is a contract, and equally binding to the State as to the grantee. The clause of the Constitution here referred to insures, therefore, the existence of a great part of acquired rights, but not of all. Property may be legally held, though it may not have passed into the possessor's hands by means of a contract; and its possession is an acquired right, not guaranteed by the Federal Constitution.

[31] A remarkable instance of this is given by Mr. Story (p. 508, or in the large edition, § 1388). "Dartmouth College in New Hampshire had been founded by a charter granted to certain individuals before the American Revolution, and its trustees formed a corporation under this charter. The Legislature of New Hampshire had, without the consent of this corporation, passed an Act changing the organization of the original provincial charter of the college, and transferring all the rights, privileges, and franchises from the old charter trustees to new trustees, appointed under the Act. The constitutionality of the Act was contested, and, after solemn arguments, it was deliberately held by the Supreme Court that the provincial charter was a contract within the meaning of the Constitution (Art. I, sect. 10), and that the emendatory Act was utterly void, as impairing the obligation of that charter. The college was deemed, like other colleges of private foundation, to be a private eleemosynary institution, endowed by its charter with a capacity to take property unconnected with the

Government. Its funds were bestowed upon the faith of the charter, and those funds consisted entirely of private donations. It is true that the uses were in some sense public, that is, for the general benefit, and not for the mere benefit of the corporators; but this did not make the corporation a public corporation. It was a private institution for general charity. It was not distinguishable in principle from a private donation, vested in private trustees, for a public charity, or for a particular purpose of beneficence. And the State itself, if it had bestowed funds upon a charity of the same nature, could not resume those funds."

[32] See Chapter VI, on "Judicial Power in America."

[33] See Kent's "Commentaries," vol. i, p. 387.

[34] At this time Alexander Hamilton, who was one of the principal founders of the Constitution, ventured to express the following sentiments in "The Federalist," No. 71:

"There are some who would be inclined to regard the servile pliancy of the Executive to a prevailing current, either in the community or in the Legislature, as its best recommendation. But such men entertain very crude notions, as well of the purposes for which government was instituted as of the true means by which the public happiness may be promoted. The Republican principle demands that the deliberative sense of the community should govern the conduct of those to whom they intrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men who flatter their prejudices to betray their interests. It is a just observation, that the people commonly intend the public good. This often applies to their very errors. But their good sense would despise the adulator who should pretend that they always reason right about the means of promoting it. They know from experience that they sometimes err; and the wonder is that they so seldom err as they do, beset, as they continually are, by the wiles of parasites and sycophants; by the snares of the ambitious, the avaricious, the desperate; by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess rather than to deserve it. When occasions present themselves in which the interests of the people are at variance with their inclinations, it is the duty of persons whom they have appointed to be the guardians of those interests to withstand the temporary delusion, in order to give them time and opportunity for more cool and sedate reflection. Instances might be cited in which a conduct of this kind has saved a people from very fatal consequences of their own mistakes, and has procured lasting monuments of their gratitude to the men who had courage and magnanimity enough to serve them at the peril of their displeasure."

[35] This was the case in Greece, when Philip undertook to execute the decree of the Amphictyons; in the Low Countries, where the province of Holland always gave the law; and, in our own time, in the Germanic Confederation, in which Austria and Prussia assume a great degree of influence over the whole country, in the name of the Diet.

[36] Such has always been the situation of the Swiss Confederation, which would have perished ages ago but for the mutual jealousies of its neighbours.

[37] I do not speak of a confederation of small republics, but of a great consolidated Republic.

[38] See the Mexican Constitution of 1824.

[39] For instance, the Union possesses by the Constitution the right of selling unoccupied lands for its own profit. Supposing that the State of Ohio should claim the same right in behalf of certain territories lying within its boundaries, upon the plea that the Constitution refers to those lands alone which do not belong to the jurisdiction of any particular State, and consequently should choose to dispose of them itself, the litigation would be carried on in the names of the purchasers from the State of Ohio and the purchasers from the Union, and not in the names of Ohio and the Union. But what would become of this legal fiction if the Federal purchaser was confirmed in his right by the courts of the Union, while the other competitor was ordered to retain possession by the tribunals of the State of Ohio?

[40] Kent's "Commentaries," vol. i, p. 244. I have selected an example which relates to a time posterior to the promulgation of the present Constitution. If I had gone back to the days of the Confederation, I might have given still more striking instances. The whole nation was at that time in a state of enthusiastic excitement; the Revolution was represented by a man who was the idol of the people; but at that very period Congress had, to say the truth, no resources at all at its disposal. Troops and supplies were perpetually wanting. The best-devised projects failed in the execution, and the Union, which was constantly on the verge of destruction, was saved by the weakness of its enemies far more than by its own strength.

CHAPTER IX

WHY THE PEOPLE STRICTLY MAY BE SAID TO GOVERN IN THE UNITED STATES

I HAVE hitherto examined the institutions of the United States; I have passed their legislation in review, and I have depicted the present characteristics of political society in that country. But a sovereign power exists above these institutions and beyond these characteristic features which may destroy or modify them at its pleasure—I mean that of the people. It remains to be shown in what manner this power, which regulates the laws, acts: its propensities and its passions remain to be pointed out, as well as the secret springs which retard, accelerate, or direct its irresistible course; and the effects of its unbounded authority, with the destiny which is probably reserved for it.

In America the people appoints the legislative and the executive power, and furnishes the jurors who punish all offences against the laws. The American institutions are democratic, not only in their principle but in all their consequences; and the people elects its representatives directly, and for the most part annually, in order to insure their dependence. The people is therefore the real directing power; and although the form of government is representative, it is evident that the opinions, the prejudices, the interests, and even the passions of the community are hindered by no durable obstacles from exercising a perpetual influence on society. In the United States the majority governs in the name of the people, as is the case in all the countries in which the people is su-

preme. This majority is principally composed of peaceable citizens, who, either by inclination or by interest, are sincerely desirous of the welfare of their country. But they are surrounded by the incessant agitation of parties, which attempt to gain their co-operation and to avail themselves of their support.

CHAPTER X

PARTIES IN THE UNITED STATES

Great distinction to be made between parties—Parties which are to each other as rival nations—Parties properly so called—Difference between great and small parties—Epochs which produce them—Their characteristics—America has had great parties—They are extinct—Federalists—Republicans—Defeat of the Federalists—Difficulty of creating parties in the United States—What is done with this intention—Aristocratic or democratic character to be met with in all parties—Struggle of General Jackson against the Bank—Remains of the aristocratic party in the United States.

A GREAT distinction must be made between parties. Some countries are so large that the different populations which inhabit them have contradictory interests, although they are the subjects of the same Government, and they may thence be in a perpetual state of opposition. In this case the different fractions of the people may more properly be considered as distinct nations than as mere parties; and if a civil war breaks out, the struggle is carried on by rival peoples rather than by factions in the State.

But when the citizens entertain different opinions upon subjects which affect the whole country alike, such, for instance, as the principles upon which the Government is to be conducted, then distinctions arise which may correctly be styled parties. Parties are a necessary evil in free governments; but they have not at all times the same character and the same propensities.

At certain periods a nation may be oppressed by such insupportable evils as to conceive the design of effecting a total change in its political constitution; at other times

the mischief lies still deeper, and the existence of society itself is endangered. Such are the times of great revolutions and of great parties. But between these epochs of misery and of confusion there are periods during which human society seems to rest, and mankind to make a pause. This pause is, indeed, only apparent, for time does not stop its course for nations any more than for men; they are all advancing toward a goal with which they are unacquainted; and we only imagine them to be stationary when their progress escapes our observation, as men who are going at a foot-pace seem to be standing still to those who run.

But however this may be, there are certain epochs at which the changes that take place in the social and political constitution of nations are so slow and so insensible that men imagine their present condition to be a final state; and the human mind, believing itself to be firmly based upon certain foundations, does not extend its researches beyond the horizon which it descries. These are the times of small parties and of intrigue.

The political parties which I style great are those which cling to principles more than to their consequences; to general, and not to especial cases; to ideas, and not to men. These parties are usually distinguished by a nobler character, by more generous passions, more genuine convictions, and a more bold and open conduct than the others. In them private interest, which always plays the chief part in political passions, is more studiously veiled under the pretext of the public good; and it may even be sometimes concealed from the eyes of the very persons whom it excites and impels.

Minor parties are, on the other hand, generally deficient in political faith. As they are not sustained or dignified by a lofty purpose, they ostensibly display the egotism of their character in their actions. They glow with a factitious zeal; their language is vehement, but their conduct is timid and irresolute. The means they employ are as wretched as the end at which they aim. Hence it arises

that when a calm state of things succeeds a violent revolution, the leaders of society seem suddenly to disappear, and the powers of the human mind to lie concealed. Society is convulsed by great parties, by minor ones it is agitated; it is torn by the former, by the latter it is degraded; and if these sometimes save it by a salutary perturbation, those invariably disturb it to no good end.

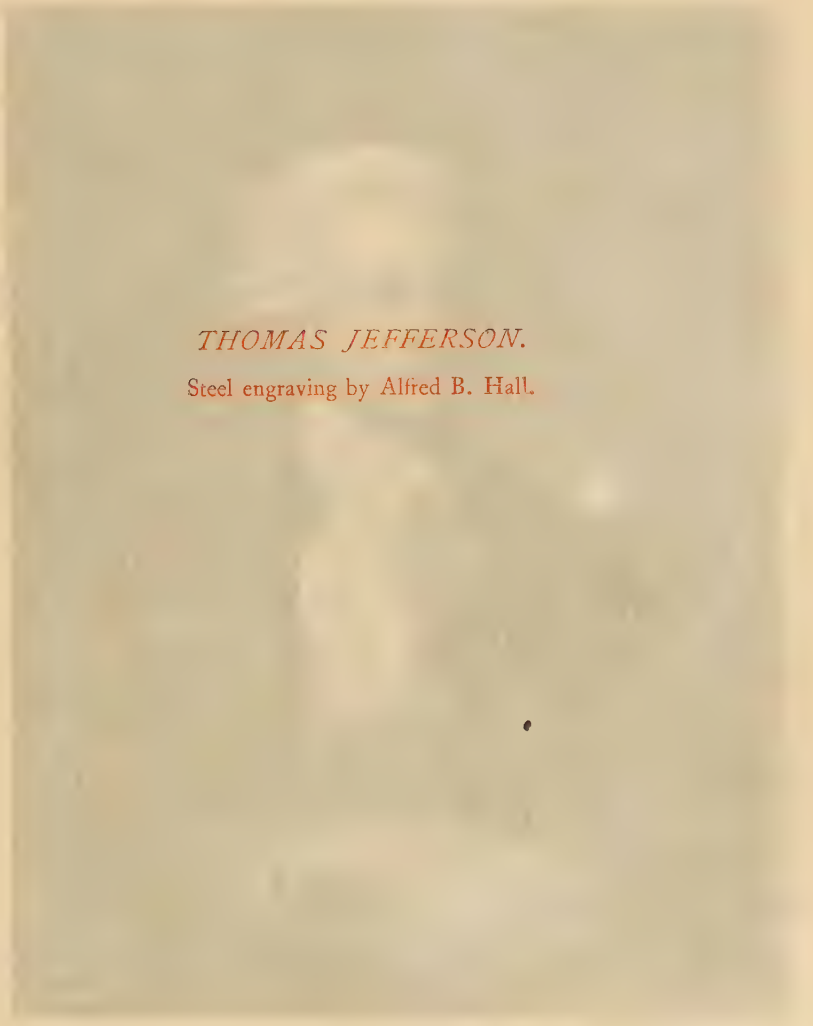
America has already lost the great parties which once divided the nation; and if her happiness is considerably increased, her morality has suffered by their extinction. When the War of Independence was terminated, and the foundations of the new Government were to be laid down, the nation was divided between two opinions—two opinions which are as old as the world, and which are perpetually to be met with under all the forms and all the names which have ever obtained in free communities—the one tending to limit, the other to extend indefinitely, the power of the people. The conflict of these two opinions never assumed that degree of violence in America which it frequently has displayed elsewhere. Both parties of the Americans were, in fact, agreed upon the most essential points; and neither of them had to destroy a traditionary constitution, or to overthrow the structure of society, in order to insure its own triumph. In neither of them, consequently, were a great number of private interests affected by success or by defeat; but moral principles of a high order, such as the love of equality and of independence, were concerned in the struggle, and they sufficed to kindle violent passions.

The party which desired to limit the power of the people endeavoured to apply its doctrines more especially to the Constitution of the Union, whence it derived its name of Federal. The other party, which affected to be more exclusively attached to the cause of liberty, took that of Republican. America is a land of democracy, and the Federalists were always in a minority; but they reckoned on their side almost all the great men who had been called forth by the War of Independence, and their moral influ-

ence was very considerable. Their cause was, moreover, favoured by circumstances. The ruin of the Confederation had impressed the people with a dread of anarchy, and the Federalists did not fail to profit by this transient disposition of the multitude. For ten or twelve years they were at the head of affairs, and they were able to apply some, though not all, of their principles; for the hostile current was becoming from day to day too violent to be checked or stemmed. In 1801 the Republicans got possession of the Government; Thomas Jefferson was named President; and he increased the influence of their party by the weight of his celebrity, the greatness of his talents, and the immense extent of his popularity.

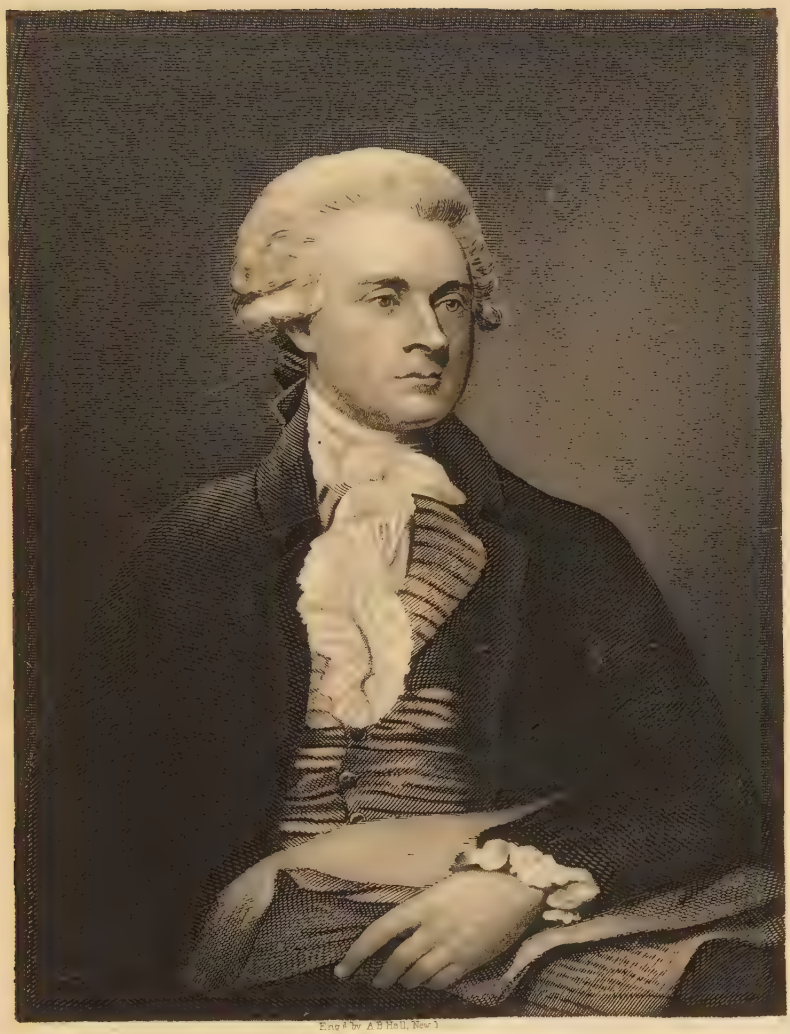
The means by which the Federalists had maintained their position were artificial, and their resources were temporary: it was by the virtues or the talents of their leaders that they had risen to power. When the Republicans attained to that lofty station, their opponents were overwhelmed by utter defeat. An immense majority declared itself against the retiring party, and the Federalists found themselves in so small a minority that they at once despaired of their future success. From that moment the Republican or Democratic party has proceeded from conquest to conquest, until it has acquired absolute supremacy in the country. The Federalists, perceiving that they were vanquished without resource, and isolated in the midst of the nation, fell into two divisions, of which one joined the victorious Republicans, and the other abandoned its rallying-point and its name. Many years have already elapsed since they ceased to exist as a party.

The accession of the Federalists to power was, in my opinion, one of the most fortunate incidents which accompanied the formation of the great American Union; they resisted the inevitable propensities of their age and of the country. But whether their theories were good or bad, they had the effect of being inapplicable, as a system, to the society which they professed to govern, and that which occurred under the auspices of Jefferson must therefore



THOMAS JEFFERSON.

Steel engraving by Alfred B. Hall.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have taken place sooner or later. But their Government gave the new republic time to acquire a certain stability, and afterward to support the rapid growth of the very doctrines which they had combated. A considerable number of their principles were in point of fact embodied in the political creed of their opponents; and the Federal Constitution which subsists at the present day is a lasting monument of their patriotism and their wisdom.

Great political parties are not, then, to be met with in the United States at the present time. Parties, indeed, may be found which threaten the future tranquility of the Union; but there are none which seem to contest the present form of Government or the present course of society. The parties by which the Union is menaced do not rest upon abstract principles, but upon temporal interests. These interests, disseminated in the provinces of so vast an empire, may be said to constitute rival nations rather than parties. Thus, upon a recent occasion, the North contended for the system of commercial prohibition, and the South took up arms in favour of free trade, simply because the North is a manufacturing and the South an agricultural district; and that the restrictive system which was profitable to the one was prejudicial to the other.

In the absence of great parties, the United States abound with lesser controversies; and public opinion is divided into a thousand minute shades of difference upon questions of very little moment. The pains which are taken to create parties are inconceivable, and at the present day it is no easy task. In the United States there is no religious animosity, because all religion is respected, and no sect is predominant; there is no jealousy of rank, because the people is everything, and none can contest its authority; lastly, there is no public indigence to supply the means of agitation, because the physical position of the country opens so wide a field to industry that man is able to accomplish the most surprising undertakings with his own native resources. Nevertheless, ambitious men are interested in the creation of parties, since it is difficult

to eject a person from authority upon the mere ground that his place is coveted by others. The skill of the actors in the political world lies therefore in the art of creating parties. A political aspirant in the United States begins by discriminating his own interest, and by calculating upon those interests which may be collected around and amalgamated with it; he then contrives to discover some doctrine or some principle which may suit the purposes of this new association, and which he adopts in order to bring forward his party and to secure his popularity; just as the imprimatur of a king was in former days incorporated with the volume which it authorized, but to which it nowise belonged. When these preliminaries are terminated, the new party is ushered into the political world.

All the domestic controversies of the Americans at first appear to a stranger to be so incomprehensible and so puerile that he is at a loss whether to pity a people which takes such arrant trifles in good earnest, or to envy the happiness which enables it to discuss them. But when he comes to study the secret propensities which govern the factions of America, he easily perceives that the greater part of them are more or less connected with one or the other of those two divisions which have always existed in free communities. The deeper we penetrate into the working of these parties, the more do we perceive that the object of the one is to limit, and that of the other to extend, the popular authority. I do not assert that the ostensible end, or even that the secret aim, of American parties is to promote the rule of aristocracy or democracy in the country; but I affirm that aristocratic or democratic passions may easily be detected at the bottom of all parties, and that, although they escape a superficial observation, they are the main point and the very soul of every faction in the United States.

To quote a recent example. When the President attacked the Bank, the country was excited and parties were formed; the well-informed classes rallied round the Bank, the common people round the President. But it must not

be imagined that the people had formed a rational opinion upon a question which offers so many difficulties to the most experienced statesmen. The Bank is a great establishment which enjoys an independent existence, and the people, accustomed to make and unmake whatsoever it pleases, is startled to meet with this obstacle to its authority. In the midst of the perpetual fluctuation of society the community is irritated by so permanent an institution, and is led to attack it in order to see whether it can be shaken and controlled, like all the other institutions of the country.

It sometimes happens in a people among which various opinions prevail that the balance of the several parties is lost, and one of them obtains an irresistible preponderance, overpowers all obstacles, harasses its opponents, and appropriates all the resources of society to its own purposes. The vanquished citizens despair of success and conceal their dissatisfaction in silence and in general apathy. The nation seems to be governed by a single principle, and the prevailing party assumes the credit of having restored peace and unanimity to the country. But this apparent unanimity is merely a cloak to alarming dissensions and perpetual opposition.

This is precisely what occurred in America; when the Democratic party got the upper hand, it took exclusive possession of the conduct of affairs, and from that time the laws and the customs of society have been adapted to its caprices. At the present day the more affluent classes of society are so entirely removed from the direction of political affairs in the United States that wealth, far from conferring a right to the exercise of power, is rather an obstacle than a means of attaining to it. The wealthy members of the community abandon the lists, through unwillingness to contend, and frequently to contend in vain, against the poorest classes of their fellow-citizens. They concentrate all their enjoyments in the privacy of their homes, where they occupy a rank which can not be assumed in public; and they constitute a private society in

the State, which has its own tastes and its own pleasures. They submit to this state of things as an irremediable evil, but they are careful not to show that they are galled by its continuance; it is even not uncommon to hear them laud the delights of a republican government, and the advantages of democratic institutions when they are in public. Next to hating their enemies, men are most inclined to flatter them.

Mark, for instance, that opulent citizen, who is as anxious as a Jew of the Middle Ages to conceal his wealth. His dress is plain, his demeanour unassuming; but the interior of his dwelling glitters with luxury, and none but a few chosen guests whom he haughtily styles his equals are allowed to penetrate into this sanctuary. No European noble is more exclusive in his pleasures, or more jealous of the smallest advantages which his privileged station confers upon him. But the very same individual crosses the city to reach a dark counting-house in the centre of traffic, where every one may accost him who pleases. If he meets his cobbler upon the way, they stop and converse; the two citizens discuss the affairs of the State in which they have an equal interest, and they shake hands before they part.

But beneath this artificial enthusiasm, and these obsequious attentions to the preponderating power, it is easy to perceive that the wealthy members of the community entertain a hearty distaste for the democratic institutions of their country. The populace is at once the object of their scorn and of their fears. If the maladministration of the democracy ever brings about a revolutionary crisis, and if monarchical institutions ever become practicable in the United States, the truth of what I advance will become obvious.

The two chief weapons which parties use in order to insure success are the public press and the formation of associations.

CHAPTER XI

LIBERTY OF THE PRESS IN THE UNITED STATES

Difficulty of restraining the liberty of the press—Particular reasons which some nations have to cherish this liberty—The liberty of the press a necessary consequence of the sovereignty of the people as it is understood in America—Violent language of the periodical press in the United States—Propensities of the periodical press—Illustrated by the United States—Opinion of the Americans upon the repression of the abuse of the liberty of the press by judicial prosecutions—Reasons why the press is less powerful in America than in France—The opinions established in the United States under the empire of the liberty of the press are frequently more firmly rooted than those which are formed elsewhere under the sanction of a censor.

THE influence of the liberty of the press does not affect political opinions alone, but it extends to all the opinions of men, and it modifies customs as well as laws. In another part of this work I shall attempt to determine the degree of influence which the liberty of the press has exercised upon civil society in the United States, and to point out the direction which it has given to the ideas, as well as the tone which it has imparted to the character and the feelings, of the Anglo-Americans, but at present I purpose simply to examine the effects produced by the liberty of the press in the political world.

I confess that I do not entertain that firm and complete attachment to the liberty of the press which things that are supremely good in their very nature are wont to excite in the mind; and I approve of it more from a recollection of the evils it prevents than from a consideration of the advantages it insures.

If any one could point out an intermediate and yet a tenable position between the complete independence and

the entire subjection of the public expression of opinion, I should perhaps be inclined to adopt it; but the difficulty is to discover this position. If it is your intention to correct the abuses of unlicensed printing and to restore the use of orderly language, you may in the first instance try the offender by a jury; but if the jury acquits him, the opinion which was that of a single individual becomes the opinion of the country at large. Too much and too little has therefore hitherto been done. If you proceed, you must bring the delinquent before a court of permanent judges. But even here the cause must be heard before it can be decided; and the very principles which no book would have ventured to avow are blazoned forth in the pleadings, and what was obscurely hinted at in a single composition is then repeated in a multitude of other publications. The language in which a thought is embodied is the mere carcass of the thought, and not the idea itself; tribunals may condemn the form, but the sense and spirit of the work are too subtle for their authority. Too much has still been done to recede, too little to attain your end; you must therefore proceed. If you establish a censorship of the press, the tongue of the public speaker will still make itself heard, and you have only increased the mischief. The powers of thought do not rely, like the powers of physical strength, upon the number of their mechanical agents, nor can a host of authors be reckoned like the troops which compose an army; on the contrary, the authority of a principle is often increased by the smallness of the number of men by whom it is expressed. The words of a strong-minded man, which penetrate amid the passions of a listening assembly, have more power than the vociferations of a thousand orators; and if it be allowed to speak freely in any public place, the consequence is the same as if free speaking was allowed in every village. The liberty of discourse must therefore be destroyed as well as the liberty of the press; this is the necessary term of your efforts; but if your object was to repress the abuses of liberty, they have brought

you to the feet of a despot. You have been led from the extreme of independence to the extreme of subjection without meeting with a single tenable position for shelter or repose.

There are certain nations which have peculiar reasons for cherishing the liberty of the press, independently of the general motives which I have just pointed out. For in certain countries which profess to enjoy the privileges of freedom every individual agent of the Government may violate the laws with impunity, since those whom he oppresses can not prosecute him before the courts of justice. In this case the liberty of the press is not merely a guarantee, but it is the only guarantee, of their liberty and their security which the citizens possess. If the rulers of these nations propose to abolish the independence of the press, the people would be justified in saying: Give us the right of prosecuting your offences before the ordinary tribunals, and perhaps we may then waive our right of appeal to the tribunal of public opinion.

But in the countries in which the doctrine of the sovereignty of the people ostensibly prevails, the censorship of the press is not only dangerous, but it is absurd. When the right of every citizen to co-operate in the government of society is acknowledged, every citizen must be presumed to possess the power of discriminating between the different opinions of his contemporaries, and of appreciating the different facts from which inferences may be drawn. The sovereignty of the people and the liberty of the press may therefore be looked upon as correlative institutions; just as the censorship of the press and universal suffrage are two things which are irreconcilably opposed, and which can not long be retained among the institutions of the same people. Not a single individual of the twelve millions who inhabit the territory of the United States has as yet dared to propose any restrictions to the liberty of the press. The first newspaper over which I cast my eyes, upon my arrival in America, contained the following article:

"In all this affair the language of Jackson has been that of a heartless despot, solely occupied with the preservation of his own authority. Ambition is his crime, and it will be his punishment too: intrigue is his native element, and intrigue will confound his tricks, and will deprive him of his power: he governs by means of corruption, and his immoral practices will redound to his shame and confusion. His conduct in the political arena has been that of a shameless and lawless gamester. He succeeded at the time, but the hour of retribution approaches, and he will be obliged to disgorge his winnings, to throw aside his false dice, and to end his days in some retirement, where he may curse his madness at his leisure; for repentance is a virtue with which his heart is likely to remain forever unacquainted."

It is not uncommonly imagined in France that the virulence of the press originates in the uncertain social condition, in the political excitement, and the general sense of consequent evil which prevail in that country; and it is therefore supposed that as soon as society has resumed a certain degree of composure the press will abandon its present vehemence. I am inclined to think that the above causes explain the reason of the extraordinary ascendancy it has acquired over the nation, but that they do not exercise much influence upon the tone of its language. The periodical press appears to me to be actuated by passions and propensities independent of the circumstances in which it is placed, and the present position of America corroborates this opinion.

America is perhaps, at this moment, the country of the whole world which contains the fewest germs of revolution; but the press is not less destructive in its principles than in France, and it displays the same violence without the same reasons for indignation. In America, as in France, it constitutes a singular power, so strangely composed of mingled good and evil that it is at the same time indispensable to the existence of freedom, and nearly incompatible with the maintenance of public order. Its power is certainly much greater in France than in the United States; though nothing is more rare in the latter country than to hear of a prosecution having been instituted against it. The reason of this is perfectly simple: the Americans, having once admitted the doctrine of the

sovereignty of the people, apply it with perfect consistency. It was never their intention to found a permanent state of things with elements which undergo daily modifications; and there is consequently nothing criminal in an attack upon the existing laws, provided it be not attended with a violent infraction of them. They are, moreover, of opinion that courts of justice are unable to check the abuses of the press; and that as the subtilty of human language perpetually eludes the severity of judicial analysis, offences of this nature are apt to escape the hand which attempts to apprehend them. They hold that to act with efficacy upon the press it would be necessary to find a tribunal, not only devoted to the existing order of things, but capable of surmounting the influence of public opinion; a tribunal which should conduct its proceedings without publicity, which should pronounce its decrees without assigning its motives, and punish the intentions even more than the language of an author. Whosoever should have the power of creating and maintaining a tribunal of this kind would waste his time in prosecuting the liberty of the press; for he would be the supreme master of the whole community, and he would be as free to rid himself of the authors as of their writings. In this question, therefore, there is no medium between servitude and extreme license; in order to enjoy the inestimable benefits which the liberty of the press insures, it is necessary to submit to the inevitable evils which it engenders. To expect to acquire the former and to escape the latter is to cherish one of those illusions which commonly mislead nations in their times of sickness, when, tired with faction and exhausted by effort, they attempt to combine hostile opinions and contrary principles upon the same soil.

The small influence of the American journals is attributable to several reasons, among which are the following:

The liberty of writing, like all other liberty, is most formidable when it is a novelty; for a people which has never been accustomed to co-operate in the conduct of

State affairs places implicit confidence in the first tribune who arouses its attention. The Anglo-Americans have enjoyed this liberty ever since the foundation of the settlements; moreover, the press can not create human passions by its own power, however skilfully it may kindle them where they exist. In America politics are discussed with animation and a varied activity, but they rarely touch those deep passions which are excited whenever the positive interest of a part of the community is impaired: but in the United States the interests of the community are in a most prosperous condition. A single glance upon a French and an American newspaper is sufficient to show the difference which exists between the two nations on this head. In France the space allotted to commercial advertisements is very limited, and the intelligence is not considerable, but the most essential part of the journal is that which contains the discussion of the politics of the day. In America three quarters of the enormous sheet which is set before the reader are filled with advertisements, and the remainder is frequently occupied by political intelligence or trivial anecdotes: it is only from time to time that one finds a corner devoted to passionate discussions like those with which the journalists of France are wont to indulge their readers.

It has been demonstrated by observation, and discovered by the innate sagacity of the pettiest as well as the greatest of despots, that the influence of a power is increased in proportion as its direction is rendered more central. In France the press combines a twofold centralization; almost all its power is centred in the same spot, and vested in the same hands, for its organs are far from numerous. The influence of a public press thus constituted, upon a sceptical nation, must be unbounded. It is an enemy with which a Government may sign an occasional truce, but which it is difficult to resist for any length of time.

Neither of these kinds of centralization exists in America. The United States have no metropolis; the intelli-

gence as well as the power of the country are dispersed abroad, and instead of radiating from a point, they cross each other in every direction; the Americans have established no central control over the expression of opinion, any more than over the conduct of business. These are circumstances which do not depend on human foresight; but it is owing to the laws of the Union that there are no licenses to be granted to printers, no securities demanded from editors as in France, and no stamp duty as in France and formerly in England. The consequence of this is that nothing is easier than to set up a newspaper, and a small number of readers suffices to defray the expenses of the editor.

The number of periodical and occasional publications which appear in the United States actually surpasses belief. The most enlightened Americans attribute the subordinate influence of the press to this excessive dissemination; and it is adopted as an axiom of political science in that country that the only way to neutralize the effect of public journals is to multiply them indefinitely. I can not conceive that a truth which is so self-evident should not already have been admitted more generally in Europe; it is comprehensible that the persons who hope to bring about revolutions by means of the press should be desirous of confining its action to a few powerful organs, but it is perfectly incredible that the partisans of the existing state of things, and the natural supporters of the law, should attempt to diminish the influence of the press by concentrating its authority. The Governments of Europe seem to treat the press with the courtesy of the knights of old; they are anxious to furnish it with the same central power which they have found to be so trusty a weapon, in order to enhance the glory of their resistance to its attacks.

In America there is scarcely a hamlet which has not its own newspaper. It may readily be imagined that neither discipline nor unity of design can be communicated to so multifarious a host, and each one is consequently led

to fight under his own standard. All the political journals of the United States are arrayed indeed on the side of the administration or against it; but they attack and defend in a thousand different ways. They can not succeed in forming those great currents of opinion which overwhelm the most solid obstacles. This division of the influence of the press produces a variety of other consequences which are scarcely less remarkable. The facility with which journals can be established induces a multitude of individuals to take a part in them; but as the extent of competition precludes the possibility of considerable profit, the most distinguished classes of society are rarely led to engage in these undertakings. But such is the number of the public prints that, even if they were a source of wealth, writers of ability could not be found to direct them all. The journalists of the United States are usually placed in a very humble position, with a scanty education and a vulgar turn of mind. The will of the majority is the most general of laws, and it establishes certain habits which form the characteristics of each peculiar class of society; thus it dictates the etiquette practised at courts and the etiquette of the bar. The characteristics of the French journalist consist in a violent, but frequently an eloquent and lofty, manner of discussing the politics of the day; and the exceptions to this habitual practice are only occasional. The characteristics of the American journalist consists in an open and coarse appeal to the passions of the populace; and he habitually abandons the principles of political science to assail the characters of individuals, to track them into private life, and disclose all their weaknesses and errors.

Nothing can be more deplorable than this abuse of the powers of thought; I shall have occasion to point out hereafter the influence of the newspapers upon the taste and the morality of the American people, but my present subject exclusively concerns the political world. It can not be denied that the effects of this extreme license of the press tend indirectly to the maintenance of public

order. The individuals who are already in the possession of a high station in the esteem of their fellow-citizens are afraid to write in the newspapers, and they are thus deprived of the most powerful instrument which they can use to excite the passions of the multitude to their own advantage.[1]

The personal opinions of the editors have no kind of weight in the eyes of the public: the only use of a journal is, that it imparts the knowledge of certain facts, and it is only by altering or distorting those facts that a journalist can contribute to the support of his own views.

But although the press is limited to these resources, its influence in America is immense. It is the power which impels the circulation of political life through all the districts of that vast territory. Its eye is open constantly to detect the secret springs of political designs, and to summon the leaders of all parties to the bar of public opinion. It rallies the interests of the community round certain principles, and it draws up the creed which factions adopt; for it affords a means of intercourse between parties which hear, and which address each other without ever having been in immediate contact. When a great number of the organs of the press adopt the same line of conduct, their influence becomes irresistible; and public opinion, when it is perpetually assailed from the same side, eventually yields to the attack. In the United States each separate journal exercises but little authority, but the power of the periodical press is only second to that of the people.[2]

In the United States the democracy perpetually raises fresh individuals to the conduct of public affairs; and the measures of the administration are consequently seldom regulated by the strict rules of consistency or of order. But the general principles of the Government are more stable, and the opinions most prevalent in society are generally more durable than in many other countries. When once the Americans have taken up an idea, whether it be well or ill founded, nothing is more difficult than to eradicate it from their minds. The same tenacity of opinion

has been observed in England, where, for the last century, greater freedom of conscience and more invincible prejudices have existed than in all the other countries of Europe. I attribute this consequence to a cause which may at first sight appear to have a very opposite tendency, namely, to the liberty of the press. The nations among which this liberty exists are as apt to cling to their opinions from pride as from conviction. They cherish them because they hold them to be just, and because they exercised their own free will in choosing them; and they maintain them not only because they are true, but because they are their own. Several other reasons conduce to the same end.

It was remarked by a man of genius that "ignorance lies at the two ends of knowledge." Perhaps it would have been more correct to have said that absolute convictions are to be met with at the two extremities, and that doubt lies in the middle; for the human intellect may be considered in three distinct states, which frequently succeed one another. A man believes implicitly, because he adopts a proposition without inquiry. He doubts as soon as he is assailed by the objections which his inquiries may have aroused. But he frequently succeeds in satisfying these doubts, and then he begins to believe afresh: he no longer lays hold on a truth in its most shadowy and uncertain form, but he sees it clearly before him, and he advances onward by the light it gives him.[3]

When the liberty of the press acts upon men who are in the first of these three states, it does not immediately disturb their habit of believing implicitly without investigation, but it constantly modifies the objects of their intuitive convictions. The human mind continues to discern but one point upon the whole intellectual horizon, and that point is in continual motion. Such are the symptoms of sudden revolutions, and of the misfortunes which are sure to befall those generations which abruptly adopt the unconditional freedom of the press.

However, the circle of novel ideas is soon terminated;

the touch of experience is upon them, and the doubt and mistrust which their uncertainty produces become universal. We may rest assured that the majority of mankind will either believe they know not wherefore, or will not know what to believe. Few are the beings who can ever hope to attain to that state of rational and independent conviction which true knowledge can beget in defiance of the attacks of doubt.

It has been remarked that in times of great religious fervour men sometimes change their religious opinions; whereas in times of general scepticism every one clings to his own persuasion. The same thing takes place in politics under the liberty of the press. In countries where all the theories of social science have been contested in their turn, the citizens who have adopted one of them stick to it, not so much because they are assured of its excellence, as because they are not convinced of the superiority of any other. In the present age men are not very ready to die in defence of their opinions, but they are rarely inclined to change them; and there are fewer martyrs as well as fewer apostates.

Another still more valid reason may yet be adduced: when no abstract opinions are looked upon as certain, men cling to the mere propensities and external interests of their position, which are naturally more tangible and more permanent than any opinions in the world.

It is not a question of easy solution whether aristocracy or democracy is most fit to govern a country. But it is certain that democracy annoys one part of the community, and that aristocracy oppresses another part. When the question is reduced to the simple expression of the struggle between poverty and wealth, the tendency of each side of the dispute becomes perfectly evident without further controversy.

Notes

[1] They only write in the papers when they choose to address the people in their own name; as, for instance, when they are called upon to repel calumnious imputations, or to correct a misstatement of facts.

[2] See Appendix, P.

[3] However, it may be doubted whether this rational and self-guiding conviction arouses as much fervour or enthusiastic devotedness in men as their first dogmatic belief.

CHAPTER XII

POLITICAL ASSOCIATIONS IN THE UNITED STATES

Daily use which the Anglo-Americans make of the right of association—Three kinds of political associations—In what manner the Americans apply the representative system to associations—Dangers resulting to the State—Great Convention of 1831 relative to the tariff—Legislative character of this Convention—Why the unlimited exercise of the right of association is less dangerous in the United States than elsewhere—Why it may be looked upon as necessary—Utility of associations in a democratic people—Different ways in which the right of association is understood in Europe and in the United States—Different use which is made of it.

IN no country in the world has the principle of association been more successfully used, or more unsparingly applied to a multitude of different objects, than in America. Besides the permanent associations which are established by law under the names of townships, cities, and counties, a vast number of others are formed and maintained by the agency of private individuals.

The citizen of the United States is taught from his earliest infancy to rely upon his own exertions in order to resist the evils and the difficulties of life; he looks upon social authority with an eye of mistrust and anxiety, and he only claims its assistance when he is quite unable to shift without it. This habit may even be traced in the schools of the rising generation, where the children in their games are wont to submit to rules which they have themselves established, and to punish misdemeanours which they have themselves defined. The same spirit pervades every act of social life. If a stoppage occurs in a thoroughfare, and the circulation of the public is hindered, the neighbours immediately constitute a deliberative body;

and this extemporaneous assembly gives rise to an executive power which remedies the inconvenience before anybody has thought of recurring to an authority superior to that of the persons immediately concerned. If the public pleasures are concerned, an association is formed to provide for the splendour and the regularity of the entertainment. Societies are formed to resist enemies which are exclusively of a moral nature, and to diminish the vice of intemperance: in the United States associations are established to promote public order, commerce, industry, morality, and religion; for there is no end which the human will, seconded by the collective exertions of individuals, despairs of attaining.

Hereafter I shall have occasion to show the effects of association upon the course of society, and I must confine myself for the present to the political world. When once the right of association is recognised, the citizens may employ it in several different ways.

An association consists simply in the public assent which a number of individuals give to certain doctrines, and in the engagement which they contract to promote the spread of those doctrines by their exertions. The right of association with these views is very analogous to the liberty of unlicensed writing; but societies thus formed possess more authority than the press. When an opinion is represented by a society, it necessarily assumes a more exact and explicit form. It numbers its partisans, and compromises their welfare in its cause: they, on the other hand, become acquainted with each other, and their zeal is increased by their number. An association unites the efforts of minds which have a tendency to diverge in one single channel, and urges them vigorously toward one single end which it points out.

The second degree in the right of association is the power of meeting. When an association is allowed to establish centres of action at certain important points in the country, its activity is increased and its influence extended. Men have the opportunity of seeing each other;

means of execution are more readily combined, and opinions are maintained with a degree of warmth and energy which written language can not approach.

Lastly, in the exercise of the right of political association, there is a third degree: the partisans of an opinion may unite in electoral bodies, and choose delegates to represent them in a central assembly. This is, properly speaking, the application of the representative system to a party.

Thus, in the first instance, a society is formed between individuals professing the same opinion, and the tie which keeps it together is of a purely intellectual nature; in the second case, small assemblies are formed which only represent a fraction of the party. Lastly, in the third case, they constitute a separate nation in the midst of the nation, a government within the Government. Their delegates, like the real delegates of the majority, represent the entire collective force of their party; and they enjoy a certain degree of that national dignity and great influence which belong to the chosen representatives of the people. It is true that they have not the right of making the laws, but they have the power of attacking those which are in being, and of drawing up beforehand those which they may afterward cause to be adopted.

If, in a people which is imperfectly accustomed to the exercise of freedom, or which is exposed to violent political passions, a deliberating minority, which confines itself to the contemplation of future laws, be placed in juxtaposition to the legislative majority, I can not but believe that public tranquility incurs very great risks in that nation. There is doubtless a very wide difference between proving that one law is in itself better than another and proving that the former ought to be substituted for the latter. But the imagination of the populace is very apt to overlook this difference, which is so apparent to the minds of thinking men. It sometimes happens that a nation is divided into two nearly equal parties, each of which affects to represent the majority. If, in immediate con-

tiguity to the directing power, another power be established, which exercises almost as much moral authority as the former, it is not to be believed that it will long be content to speak without acting; or that it will always be restrained by the abstract consideration of the nature of associations which are meant to direct but not to enforce opinions, to suggest but not to make the laws.

The more we consider the independence of the press in its principal consequences, the more are we convinced that it is the chief and, so to speak, the constitutive element of freedom in the modern world. A nation which is determined to remain free is therefore right in demanding the unrestrained exercise of this independence. But the unrestrained liberty of political association can not be entirely assimilated to the liberty of the press. The one is at the same time less necessary and more dangerous than the other. A nation may confine it within certain limits without forfeiting any part of its self-control; and it may sometimes be obliged to do so in order to maintain its own authority.

In America the liberty of association for political purposes is unbounded. An example will show in the clearest light to what an extent this privilege is tolerated.

The question of the tariff, or of free trade, produced a great manifestation of party feeling in America; the tariff was not only a subject of debate as a matter of opinion, but it exercised a favourable or a prejudicial influence upon several very powerful interests of the States. The North attributed a great portion of its prosperity, and the South all its sufferings, to this system; insomuch that for a long time the tariff was the sole source of the political animosities which agitated the Union.

In 1831, when the dispute was raging with the utmost virulence, a private citizen of Massachusetts proposed to all the enemies of the tariff, by means of the public prints, to send delegates to Philadelphia in order to consult together upon the means which were most fitted to promote freedom of trade. This proposal circulated in a few days

from Maine to New Orleans by the power of the printing-press: the opponents of the tariff adopted it with enthusiasm; meetings were formed on all sides, and delegates were named. The majority of these individuals were well known, and some of them had earned a considerable degree of celebrity. South Carolina alone, which afterward took up arms in the same cause, sent sixty-three delegates. On the 1st of October, 1831, this assembly, which according to the American custom had taken the name of a Convention, met at Philadelphia; it consisted of more than two hundred members. Its debates were public, and they at once assumed a legislative character; the extent of the powers of Congress, the theories of free trade, and the different clauses of the tariff, were discussed in turn. At the end of ten days' deliberation the Convention broke up, after having published an address to the American people, in which it declared:

I. That Congress had not the right of making a tariff, and that the existing tariff was unconstitutional;

II. That the prohibition of free trade was prejudicial to the interests of all nations, and to that of the American people in particular.

It must be acknowledged that the unrestrained liberty of political association has not hitherto produced, in the United States, those fatal consequences which might perhaps be expected from it elsewhere. The right of association was imported from England, and it has always existed in America; so that the exercise of this privilege is now amalgamated with the manners and customs of the people. At the present time the liberty of association is become a necessary guarantee against the tyranny of the majority. In the United States, as soon as a party is become preponderant, all public authority passes under its control; its private supporters occupy all the places, and have all the force of the administration at their disposal. As the most distinguished partisans of the other side of the question are unable to surmount the obstacles which exclude them from power, they require some means of

establishing themselves upon their own basis, and of opposing the moral authority of the minority to the physical power which domineers over it. Thus a dangerous expedient is used to obviate a still more formidable danger.

The omnipotence of the majority appears to me to present such extreme perils to the American republics that the dangerous measure which is used to repress it seems to be more advantageous than prejudicial. And here I am about to advance a proposition which may remind the reader of what I said before in speaking of municipal freedom: There are no countries in which associations are more needed, to prevent the despotism of faction or the arbitrary power of a prince, than those which are democratically constituted. In aristocratic nations the body of the nobles and the more opulent part of the community are in themselves natural associations, which act as checks upon the abuses of power. In countries in which these associations do not exist, if private individuals are unable to create an artificial and a temporary substitute for them, I can imagine no permanent protection against the most galling tyranny; and a great people may be oppressed by a small faction, or by a single individual, with impunity.

The meeting of a great political Convention (for there are Conventions of all kinds), which may frequently become a necessary measure, is always a serious occurrence, even in America, and one which is never looked forward to, by the judicious friends of the country, without alarm. This was very perceptible in the Convention of 1831, at which the exertions of all the most distinguished members of the assembly tended to moderate its language, and to restrain the subjects which it treated within certain limits. It is probable, in fact, that the Convention of 1831 exercised a very great influence upon the minds of the malcontents, and prepared them for the open revolt against the commercial laws of the Union which took place in 1832.

It can not be denied that the unrestrained liberty of

association for political purposes is the privilege which a people is longest in learning how to exercise. If it does not throw the nation into anarchy, it perpetually augments the chances of that calamity. On one point, however, this perilous liberty offers a security against dangers of another kind; in countries where associations are free, secret societies are unknown. In America there are numerous factions, but no conspiracies.

The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow-creatures, and of acting in common with them. I am therefore led to conclude that the right of association is almost as inalienable as the right of personal liberty. No legislator can attack it without impairing the very foundations of society. Nevertheless, if the liberty of association is a fruitful source of advantages and prosperity to some nations, it may be perverted or carried to excess by others, and the element of life may be changed into an element of destruction. A comparison of the different methods which associations pursue in those countries in which they are managed with discretion, as well as in those where liberty degenerates into license, may perhaps be thought useful both to governments and to parties.

The greater part of Europeans look upon an association as a weapon which is to be hastily fashioned, and immediately tried in the conflict. A society is formed for discussion; but the idea of impending action prevails in the minds of those who constitute it: it is, in fact, an army; and the time given to parley serves to reckon up the strength and to animate the courage of the host, after which they direct their march against the enemy. Resources which lie within the bounds of the law may suggest themselves to the persons who compose it as means, but never as the only means, of success.

Such, however, is not the manner in which the right of association is understood in the United States. In America the citizens who form the minority associate, in

order, in the first place, to show their numerical strength, and so to diminish the moral authority of the majority; and, in the second place, to stimulate competition, and to discover those arguments which are most fitted to act upon the majority; for they always entertain hopes of drawing over their opponents to their own side, and of afterward disposing of the supreme power in their name. Political associations in the United States are therefore peaceable in their intentions, and strictly legal in the means which they employ; and they assert with perfect truth that they only aim at success by lawful expedients.

The difference which exists between the Americans and ourselves depends on several causes. In Europe there are numerous parties so diametrically opposed to the majority that they can never hope to acquire its support, and at the same time they think that they are sufficiently strong in themselves to struggle and to defend their cause. When a party of this kind forms an association, its object is, not to conquer, but to fight. In America the individuals who hold opinions very much opposed to those of the majority are no sort of impediment to its power, and all other parties hope to win it over to their own principles in the end. The exercise of the right of association becomes dangerous in proportion to the impossibility which excludes great parties from acquiring the majority. In a country like the United States, in which the differences of opinion are mere differences of hue, the right of association may remain unrestrained without evil consequences. The inexperience of many of the European nations in the enjoyment of liberty leads them only to look upon the liberty of association as a right of attacking the Government. The first notion which presents itself to a party, as well as to an individual, when it has acquired a consciousness of its own strength, is that of violence: the notion of persuasion arises at a later period and is only derived from experience. The English, who are divided into parties which differ most essentially from each other, rarely abuse the right of association, because they

have long been accustomed to exercise it. In France the passion for war is so intense that there is no undertaking so mad, or so injurious to the welfare of the State, that a man does not consider himself honoured in defending it, at the risk of his life.

But perhaps the most powerful of the causes which tend to mitigate the excesses of political association in the United States is Universal Suffrage. In countries in which universal suffrage exists the majority is never doubtful, because neither party can pretend to represent that portion of the community which has not voted. The associations which are formed are aware, as well as the nation at large, that they do not represent the majority: this is, indeed, a condition inseparable from their existence; for if they did represent the preponderating power, they would change the law instead of soliciting its reform. The consequence of this is that the moral influence of the Government which they attack is very much increased, and their own power is very much enfeebled.

In Europe there are few associations which do not affect to represent the majority, or which do not believe that they represent it. This conviction or this pretension tends to augment their force amazingly, and contributes no less to legalize their measures. Violence may seem to be excusable in defence of the cause of oppressed right. Thus it is, in the vast labyrinth of human laws, that extreme liberty sometimes corrects the abuses of license, and that extreme democracy obviates the dangers of democratic government. In Europe, associations consider themselves, in some degree, as the legislative and executive councils of the people, which is unable to speak for itself. In America, where they only represent a minority of the nation, they argue and they petition.

The means which the associations of Europe employ are in accordance with the end which they propose to obtain. As the principal aim of these bodies is to act, and not to debate, to fight rather than to persuade, they are naturally led to adopt a form of organization which differs

from the ordinary customs of civil bodies, and which assumes the habits and the maxims of military life. They centralize the direction of their resources as much as possible, and they intrust the power of the whole party to a very small number of leaders.

The members of these associations respond to a watchword, like soldiers on duty; they profess the doctrine of passive obedience; say rather, that in uniting together they at once abjure the exercise of their own judgment and free will; and the tyrannical control which these societies exercise is often far more insupportable than the authority possessed over society by the Government which they attack. Their moral force is much diminished by these excesses, and they lose the powerful interest which is always excited by a struggle between oppressors and the oppressed. The man who in given cases consents to obey his fellows with servility, and who submits his activity and even his opinions to their control, can have no claim to rank as a free citizen.

The Americans have also established certain forms of government which are applied to their associations, but these are invariably borrowed from the forms of the civil administration. The independence of each individual is formally recognised; the tendency of the members of the association points, as it does in the body of the community, toward the same end, but they are not obliged to follow the same track. No one abjures the exercise of his reason and his free will; but every one exerts that reason and that will for the benefit of a common undertaking.

CHAPTER XIII

DEMOCRATIC GOVERNMENT IN AMERICA

Universal suffrage—Choice of the people, and instinctive preferences of the American democracy—Causes which may partly correct these tendencies of the democracy—Influence which the American democracy has exercised on the laws relating to elections—Public officers under the control of the democracy in America—Arbitrary power of magistrates under the rule of the American democracy—Instability of the administration in the United States—Charges levied by the State under the rule of the American democracy—Tendencies of the American democracy as regards the salaries of public officers—Difficulty of distinguishing the causes which contribute to the economy of the American Government—Whether the expenditure of the United States can be compared to that of France—Corruption and vices of the rulers in a democracy, and consequent effects upon public morality—Efforts of which a democracy is capable—Self-control of the American democracy—Conduct of foreign affairs by the American democracy.

I AM well aware of the difficulties which attend this part of my subject, but although every expression which I am about to make use of may clash, upon some one point, with the feelings of the different parties which divide my country, I shall speak my opinion with the most perfect openness.

In Europe we are at a loss how to judge the true character and the more permanent propensities of democracy, because in Europe two conflicting principles exist, and we do not know what to attribute to the principles themselves, and what to refer to the passions which they bring into collision. Such, however, is not the case in America; there the people reigns without any obstacle, and it has no perils to dread and no injuries to avenge. In America, democracy is swayed by its own free propensities; its course is natural and its activity is unrestrained; the

United States consequently afford the most favourable opportunity of studying its real character. And to no people can this inquiry be more vitally interesting than to the French nation, which is blindly driven onward by a daily and irresistible impulse toward a state of things which may prove either despotic or republican, but which will assuredly be democratic.

I have already observed that universal suffrage has been adopted in all the States of the Union; it consequently occurs among different populations which occupy very different positions in the scale of society. I have had opportunities of observing its effects in different localities, and among races of men who are nearly strangers to each other by their language, their religion, and their manner of life; in Louisiana as well as in New England, in Georgia and in Canada. I have remarked that universal suffrage is far from producing in America either all the good or all the evil consequences which are assigned to it in Europe, and that its effects differ very widely from those which are usually attributed to it.

Many people in Europe are apt to believe without saying it, or to say without believing it, that one of the great advantages of universal suffrage is, that it intrusts the direction of public affairs to men who are worthy of the public confidence. They admit that the people is unable to govern for itself, but they aver that it is always sincerely disposed to promote the welfare of the State, and that it instinctively designates those persons who are animated by the same good wishes, and who are the most fit to wield the supreme authority. I confess that the observations I made in America by no means coincide with these opinions. On my arrival in the United States I was surprised to find so much distinguished talent among the subjects, and so little among the heads of the Government. It is a well-authenticated fact, that at the present day the most able men in the United States are very rarely placed at the head of affairs; and it must be acknowledged that such has been the result in proportion as democracy

has outstepped all its former limits. The race of American statesmen has evidently dwindled most remarkably in the course of the last fifty years.

Several causes may be assigned to this phenomenon. It is impossible, notwithstanding the most strenuous exertions, to raise the intelligence of the people above a certain level. Whatever may be the facilities of acquiring information, whatever may be the profusion of easy methods and of cheap science, the human mind can never be instructed and educated without devoting a considerable space of time to those objects.

The greater or the lesser possibility of subsisting without labour is therefore the necessary boundary of intellectual improvement. This boundary is more remote in some countries and more restricted in others; but it must exist somewhere as long as the people is constrained to work in order to procure the means of physical subsistence, that is to say, as long as it retains its popular character. It is therefore quite as difficult to imagine a State in which all the citizens should be very well informed as a State in which they all should be wealthy; these two difficulties may be looked upon as correlative. It may very readily be admitted that the mass of the citizens are sincerely disposed to promote the welfare of their country; nay more, it even may be allowed that the lower classes are less apt to be swayed by considerations of personal interest than the higher orders: but it is always more or less impossible for them to discern the best means of attaining the end which they desire with sincerity. Long and patient observation, joined to a multitude of different notions, is required to form a just estimate of the character of a single individual; and can it be supposed that the vulgar have the power of succeeding in an inquiry which misleads the penetration of genius itself? The people has neither the time nor the means which are essential to the prosecution of an investigation of this kind: its conclusions are hastily formed from a superficial inspection of the more prominent features of a question. Hence it often assents to the

clamour of a mountebank who knows the secret of stimulating its tastes, while its truest friends frequently fail in their exertions.

Moreover, the democracy is not only deficient in that soundness of judgment which is necessary to select men really deserving of its confidence, but it has neither the desire nor the inclination to find them out. It can not be denied that democratic institutions have a very strong tendency to promote the feeling of envy in the human heart; not so much because they afford to every one the means of rising to the level of any of his fellow-citizens, as because those means perpetually disappoint the persons who employ them. Democratic institutions awaken and foster a passion for equality which they can never entirely satisfy. This complete equality eludes the grasp of the people at the very moment at which it thinks to hold it fast, and "flies," as Pascal says, "with eternal flight"; the people is excited in the pursuit of an advantage, which is more precious because it is not sufficiently remote to be unknown, or sufficiently near to be enjoyed. The lower orders are agitated by the chance of success, they are irritated by its uncertainty; and they pass from the enthusiasm of pursuit to the exhaustion of ill success, and lastly to the acrimony of disappointment. Whatever transcends their own limits appears to be an obstacle to their desires, and there is no kind of superiority, however legitimate it may be, which is not irksome in their sight.

It has been supposed that the secret instinct which leads the lower orders to remove their superiors as much as possible from the direction of public affairs is peculiar to France. This, however, is an error; the propensity to which I allude is not adherent in any particular nation, but in democratic institutions in general; and although it may have been heightened by peculiar political circumstances, it owes its origin to a higher cause.

In the United States the people is not disposed to hate the superior classes of society; but it is not very favourably inclined toward them, and it carefully excludes them

from the exercise of authority. It does not entertain any dread of distinguished talents, but it is rarely captivated by them; and it awards its approbation very sparingly to such as have risen without the popular support.

While the natural propensities of democracy induce the people to reject the most distinguished citizens as its rulers, these individuals are no less apt to retire from a political career in which it is almost impossible to retain their independence, or to advance without degrading themselves. This opinion has been very candidly set forth by Chancellor Kent, who says, in speaking with great eulogiums of that part of the Constitution which empowers the Executive to nominate the judges: "It is indeed probable that the men who are best fitted to discharge the duties of this high office would have too much reserve in their manners, and too much austerity in their principles, for them to be returned by the majority at an election where universal suffrage is adopted." Such were the opinions which were printed without contradiction in America in the year 1830.

I hold it to be sufficiently demonstrated that universal suffrage is by no means a guarantee of the wisdom of the popular choice; and that, whatever its advantages may be, this is not one of them.

When a State is threatened by serious dangers, the people frequently succeeds in selecting the citizens who are the most able to save it. It has been observed that man rarely retains his customary level in presence of very critical circumstances; he rises above or he sinks below his usual condition, and the same thing occurs in nations at large. Extreme perils sometimes quench the energy of a people instead of stimulating it; they excite without directing its passions, and instead of clearing they confuse its powers of perception. The Jews deluged the smoking ruins of their temple with the carnage of the remnant of their host. But it is more common, both in the case of nations and in that of individuals, to find extraordinary virtues arising from the very imminence of the danger.

Great characters are then thrown into relief, as edifices which are concealed by the gloom of night are illuminated by the glare of a conflagration. At those dangerous times genius no longer abstains from presenting itself in the arena; and the people, alarmed by the perils of its situation, buries its envious passions in a short oblivion. Great names may then be drawn from the balloting-box.

I have already observed that the American statesmen of the present day are very inferior to those who stood at the head of affairs fifty years ago. This is as much a consequence of the circumstances as of the laws of the country. When America was struggling in the high cause of independence to throw off the yoke of another country, and when it was about to usher a new nation into the world, the spirits of its inhabitants were roused to the height which their great efforts required. In this general excitement the most distinguished men were ready to forestall the wants of the community, and the people clung to them for support, and placed them at its head. But events of this magnitude are rare, and it is from an inspection of the ordinary course of affairs that our judgment must be formed.

If passing occurrences sometimes act as checks upon the passions of democracy, the intelligence and the manners of the community exercise an influence which is not less powerful and far more permanent. This is extremely perceptible in the United States.

In New England the education and the liberties of the communities were engendered by the moral and religious principles of their founders. Where society has acquired a sufficient degree of stability to enable it to hold certain maxims and to retain fixed habits, the lower orders are accustomed to respect intellectual superiority and to submit to it without complaint, although they set at naught all those privileges which wealth and birth have introduced among mankind. The democracy in New England consequently makes a more judicious choice than it does elsewhere.

But as we descend toward the South, to those States in which the constitution of society is more modern and less strong, where instruction is less general, and where the principles of morality, of religion, and of liberty are less happily combined, we perceive that the talents and the virtues of those who are in authority become more and more rare.

Lastly, when we arrive at the new Southwestern States, in which the constitution of society dates but from yesterday, and presents an agglomeration of adventurers and speculators, we are amazed at the persons who are invested with public authority, and we are led to ask by what force, independent of the legislation and of the men who direct it, the State can be protected, and society be made to flourish.

There are certain laws of a democratic nature which contribute, nevertheless, to correct, in some measure, the dangerous tendencies of democracy. On entering the House of Representatives at Washington one is struck by the vulgar demeanour of that great assembly. The eye frequently does not discover a man of celebrity within its walls. Its members are almost all obscure individuals whose names present no associations to the mind: they are mostly village lawyers, men in trade, or even persons belonging to the lower classes of society. In a country in which education is very general, it is said that the representatives of the people do not always know how to write correctly.

'At a few yards' distance from this spot is the door of the Senate, which contains within a small space a large proportion of the celebrated men of America. Scarcely an individual is to be perceived in it who does not recall the idea of an active and illustrious career: the Senate is composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose language would at all times do honour to the most remarkable parliamentary debates of Europe.

What, then, is the cause of this strange contrast, and

why are the most able citizens to be found in one assembly rather than in the other? Why is the former body remarkable for its vulgarity and its poverty of talent, while the latter seems to enjoy a monopoly of intelligence and of sound judgment? Both of these assemblies emanate from the people; both of them are chosen by universal suffrage; and no voice has hitherto been heard to assert in America that the Senate is hostile to the interests of the people. From what cause, then, does so startling a difference arise? The only reason which appears to me adequately to account for it is, that the House of Representatives is elected by the populace directly, and that the Senate is elected by elected bodies. The whole body of the citizens names the legislature of each State, and the Federal Constitution converts these legislatures into so many electoral bodies, which return the members of the Senate. The senators are elected by an indirect application of universal suffrage; for the legislatures which name them are not aristocratic or privileged bodies which exercise the electoral franchise in their own right; but they are chosen by the totality of the citizens; they are generally elected every year, and new members may constantly be chosen who will employ their electoral rights in conformity with the wishes of the public. But this transmission of the popular authority through an assembly of chosen men operates an important change in it, by refining its discretion and improving the forms which it adopts. Men who are chosen in this manner accurately represent the majority of the nation which governs them; but they represent the elevated thoughts which are current in the community, the propensities which prompt its nobler actions, rather than the petty passions which disturb or the vices which disgrace it.

The time already may be anticipated at which the American republics will be obliged to introduce the plan of election by an elected body more frequently into their system of representation, or they will incur no small risk of perishing miserably among the shoals of democracy.

And here I have no scruple in confessing that I look upon this peculiar system of election as the only means of bringing the exercise of political power to the level of all classes of the people. Those thinkers who regard this institution as the exclusive weapon of a party, and those who fear, on the other hand, to make use of it, seem to me to fall into as great an error in the one case as in the other.

When elections recur at long intervals the State is exposed to violent agitation every time they take place. Parties exert themselves to the utmost in order to gain a prize which is so rarely within their reach; and as the evil is almost irremediable for the candidates who fail, the consequences of their disappointed ambition may prove most disastrous: if, on the other hand, the legal struggle can be repeated within a short space of time, the defeated parties take patience. When elections occur frequently, their recurrence keeps society in a perpetual state of feverish excitement, and imparts a continual instability to public affairs.

Thus, on the one hand, the State is exposed to the perils of a revolution, on the other to perpetual mutability; the former system threatens the very existence of the Government, the latter is an obstacle to all steady and consistent policy. The Americans have preferred the second of these evils to the first; but they were led to this conclusion by their instinct much more than by their reason; for a taste for variety is one of the characteristic passions of democracy. An extraordinary mutability has, by this means, been introduced into their legislation. Many of the Americans consider the instability of their laws as a necessary consequence of a system whose general results are beneficial. But no one in the United States affects to deny the fact of this instability, or to contend that it is not a great evil.

Hamilton, after having demonstrated the utility of a power which might prevent, or which might at least impede, the promulgation of bad laws, adds: "It might per-

haps be said that the power of preventing bad laws includes that of preventing good ones, and may be used to the one purpose as well as to the other. But this objection will have little weight with those who can properly estimate the mischiefs of that inconstancy and mutability in the laws which form the greatest blemish in the character and genius of our governments" ("Federalist," No. 73). And again in No. 62 of the same work he observes: "The facility and excess of law-making seem to be the diseases to which our governments are most liable. . . . The mischievous effects of the mutability in the public councils arising from a rapid succession of new members would fill a volume: every new election in the States is found to change one half of the representatives. From this change of men must proceed a change of opinions and of measures, which forfeits the respect and confidence of other nations, poisons the blessings of liberty itself, and diminishes the attachment and reverence of the people toward a political system which betrays so many marks of infirmity."

Jefferson himself, the greatest democrat whom the democracy of America has yet produced, pointed out the same evils. "The instability of our laws," said he in a letter to Madison, "is really a very serious inconvenience. I think that we ought to have obviated it by deciding that a whole year should always be allowed to elapse between the bringing in of a bill and the final passing of it. It should afterward be discussed and put to the vote without the possibility of making any alteration in it; and if the circumstances of the case required a more speedy decision, the question should not be decided by a simple majority, but by a majority of at least two thirds of both houses."

Public officers in the United States are commingled with the crowd of citizens; they have neither palaces, nor guards, nor ceremonial costumes. This simple exterior of the persons in authority is connected not only with the peculiarities of the American character, but with the fundamental principles of that society. In the estimation of

the democracy a government is not a benefit, but a necessary evil. A certain degree of power must be granted to public officers, for they would be of no use without it. But the ostensible semblance of authority is by no means indispensable to the conduct of affairs, and it is needlessly offensive to the susceptibility of the public. The public officers themselves are well aware that they only enjoy the superiority over their fellow-citizens which they derive from their authority upon condition of putting themselves on a level with the whole community by their manners. A public officer in the United States is uniformly civil, accessible to all the world, attentive to all requests, and obliging in his replies. I was pleased by these characteristics of a democratic government; and I was struck by the manly independence of the citizens, who respect the office more than the officer, and who are less attached to the emblems of authority than to the man who bears them.

I am inclined to believe that the influence which costumes really exercise, in an age like that in which we live, has been a good deal exaggerated. I never perceived that a public officer in America was the less respected while he was in the discharge of his duties because his own merit was set off by no adventitious signs. On the other hand, it is very doubtful whether a peculiar dress contributes to the respect which public characters ought to have for their own position, at least when they are not otherwise inclined to respect it. When a magistrate (and in France such instances are not rare) indulges his trivial wit at the expense of the prisoner, or derides the predicament in which a culprit is placed, it would be well to deprive him of his robes of office, to see whether he would recall some portion of the natural dignity of mankind when he is reduced to the apparel of a private citizen.

A democracy may, however, allow a certain show of magisterial pomp, and clothe its officers in silks and gold, without seriously compromising its principles. Privileges of this kind are transitory; they belong to the place, and are distinct from the individual: but if public officers are

not uniformly remunerated by the State, the public charges must be intrusted to men of opulence and independence, who constitute the basis of an aristocracy; and if the people still retains its right of election, that election can only be made from a certain class of citizens. When a democratic republic renders offices which had formerly been remunerated gratuitous, it may safely be believed that the State is advancing to monarchical institutions; and when a monarchy begins to remunerate such officers as had hitherto been unpaid, it is a sure sign that it is approaching toward a despotic or a republican form of government. The substitution of paid for unpaid functionaries is of itself, in my opinion, sufficient to constitute a serious revolution.

I look upon the entire absence of gratuitous functionaries in America as one of the most prominent signs of the absolute dominion which democracy exercises in that country. All public services, of whatsoever nature they may be, are paid; so that every one has not merely the right, but also the means of performing them. Although, in democratic States, all the citizens are qualified to occupy stations in the Government, all are not tempted to try for them. The number and the capacities of the candidates are more apt to restrict the choice of electors than the conditions of the candidateship.

In nations in which the principle of election extends to every place in the State no political career can, properly speaking, be said to exist. Men are promoted as if by chance to the rank which they enjoy, and they are by no means sure of retaining it. The consequence is that in tranquil times public functions offer but few lures to ambition. In the United States the persons who engage in the perplexities of political life are individuals of very moderate pretensions. The pursuit of wealth generally diverts men of great talents and of great passions from the pursuit of power, and it very frequently happens that a man does not undertake to direct the fortune of the State until he has discovered his incompetence to conduct his own affairs. The vast number of very ordinary men who occupy

public stations is quite as attributable to these causes as to the bad choice of the democracy. In the United States, I am not sure that the people would return the men of superior abilities who might solicit its support, but it is certain that men of this description do not come forward.

In two different kinds of government the magistrates [1] exercise a considerable degree of arbitrary power; namely, under the absolute government of a single individual, and under that of a democracy. This identical result proceeds from causes which are nearly analogous.

In despotic States the fortune of no citizen is secure; and public officers are not more safe than private individuals. The sovereign, who has under his control the lives, the property, and sometimes the honour of the men whom he employs, does not scruple to allow them a great latitude of action, because he is convinced that they will not use it to his prejudice. In despotic States the sovereign is so attached to the exercise of his power that he dislikes the constraint even of his own regulations; and he is well pleased that his agents should follow a somewhat fortuitous line of conduct, provided he be certain that their actions will never counteract his desires.

In democracies, as the majority has every year the right of depriving the officers whom it has appointed of their power, it has no reason to fear any abuse of their authority. As the people is always able to signify its wishes to those who conduct the Government, it prefers leaving them to make their own exertions to prescribing an invariable rule of conduct which would at once fetter their activity and the popular authority.

It may even be observed, on attentive consideration, that under the rule of a democracy the arbitrary power of the magistrate must be still greater than in despotic States. In the latter the sovereign has the power of punishing all the faults with which he becomes acquainted, but it would be vain for him to hope to become acquainted with all those which are committed. In the former the sovereign power is not only supreme, but it is universally present.

The American functionaries are, in point of fact, much more independent in the sphere of action which the law traces out for them than any public officer in Europe. Very frequently the object which they are to accomplish is simply pointed out to them, and the choice of the means is left to their own discretion.

In New England, for instance, the selectmen of each township are bound to draw up the list of persons who are to serve on the jury; the only rule which is laid down to guide them in their choice is that they are to select citizens possessing the elective franchise and enjoying a fair reputation.[2] In France the lives and liberties of the subject would be thought to be in danger if a public officer of any kind was intrusted with so formidable a right. In New England the same magistrates are empowered to post the names of habitual drunkards in public-houses, and to prohibit the inhabitants of a town from supplying them with liquor.[3] A censorial power of this excessive kind would be revolting to the population of the most absolute monarchies; here, however, it is submitted to without difficulty.

Nowhere has so much been left by the law to the arbitrary determination of the magistrate as in democratic republics, because this arbitrary power is unattended by any alarming consequences. It even may be asserted that the freedom of the magistrate increases as the elective franchise is extended, and as the duration of the time of office is shortened. Hence arises the great difficulty which attends the conversion of a democratic republic into a monarchy. The magistrate ceases to be elective, but he retains the rights and the habits of an elected officer, which lead directly to despotism.

It is only in limited monarchies that the law, which prescribes the sphere in which public officers are to act, superintends all their measures. The cause of this may be easily detected. In limited monarchies the power is divided between the king and the people, both of whom are interested in the stability of the magistrate. The king

does not venture to place the public officers under the control of the people, lest they should be tempted to betray his interests; on the other hand, the people fears lest the magistrates should serve to oppress the liberties of the country, if they were entirely dependent upon the Crown; they can not, therefore, be said to depend on either the one or the other. The same cause which induces the king and the people to render public officers independent suggests the necessity of such securities as may prevent their independence from encroaching upon the authority of the former and the liberties of the latter. They consequently agree as to the necessity of restricting the functionary to a line of conduct laid down beforehand, and they are interested in confining him by certain regulations which he can not evade.

The authority which public men possess in America is so brief, and they are so soon commingled with the ever-changing population of the country, that the acts of a community frequently leave fewer traces than the occurrences of a private family. The public administration is, so to speak, oral and traditionary. But little is committed to writing, and that little is wafted away forever, like the leaves of the Sibyl, by the smallest breeze.

The only historical remains in the United States are the newspapers; but if a number be wanting, the chain of time is broken, and the present is severed from the past, I am convinced that in fifty years it will be more difficult to collect authentic documents concerning the social condition of the Americans at the present day than it is to find remains of the administration of France during the Middle Ages; and if the United States were ever invaded by barbarians, it would be necessary to have recourse to the history of other nations in order to learn anything of the people which now inhabits them.

The instability of the administration has penetrated into the habits of the people: it even appears to suit the general taste, and no one cares for what occurred before his time. No methodical system is pursued; no archives

are formed; and no documents are brought together when it would be very easy to do so. Where they exist, little store is set upon them; and I have among my papers several original public documents which were given to me in answer to some of my inquiries. In America society seems to live from hand to mouth, like an army in the field. Nevertheless, the art of administration may undoubtedly be ranked as a science, and no sciences can be improved if the discoveries and observations of successive generations are not connected together in the order in which they occur. One man, in the short space of his life remarks a fact; another conceives an idea; the former invents a means of execution, the latter reduces a truth to a fixed proposition; and mankind gathers the fruits of individual experience upon its way and gradually forms the sciences. But the persons who conduct the administration in America can seldom afford any instruction to each other; and when they assume the direction of society, they simply possess those attainments which are most widely disseminated in the community, and no experience peculiar to themselves. Democracy, carried to its furthest limits, is therefore prejudicial to the art of government; and for this reason it is better adapted to a people already versed in the conduct of an administration than to a nation which is uninitiated in public affairs.

This remark, indeed, is not exclusively applicable to the science of administration. Although a democratic government is founded upon a very simple and natural principle, it always presupposes the existence of a high degree of culture and enlightenment in society.[4] At the first glance it may be imagined to belong to the earliest ages of the world; but maturer observation will convince us that it could only come last in the succession of human history.

Before we can affirm whether a democratic form of government is economical or not, we must establish a suitable standard of comparison. The question would be one of easy solution if we were to attempt to draw a paral-

lel between a democratic republic and an absolute monarchy. The public expenditure would be found to be more considerable under the former than under the latter; such is the case with all free States compared to those which are not so. It is certain that despotism ruins individuals by preventing them from producing wealth, much more than by depriving them of the wealth they have produced; it dries up the source of riches, while it usually respects acquired property. Freedom, on the contrary, engenders far more benefits than it destroys; and the nations which are favoured by free institutions invariably find that their resources increase even more rapidly than their taxes.

My present object is to compare free nations to each other, and to point out the influence of democracy upon the finances of a State.

Communities, as well as organic bodies, are subject to certain fixed rules in their formation which they can not evade. They are composed of certain elements which are common to them at all times and under all circumstances. The people may always be mentally divided into three distinct classes. The first of these classes consists of the wealthy; the second, of those who are in easy circumstances; and the third is composed of those who have little or no property, and who subsist more especially by the work which they perform for the two superior orders. The proportion of the individuals who are included in these three divisions may vary according to the condition of society, but the divisions themselves can never be obliterated.

It is evident that each of these classes will exercise an influence peculiar to its own propensities upon the administration of the finances of the State. If the first of the three exclusively possesses the legislative power, it is probable that it will not be sparing of the public funds, because the taxes which are levied on a large fortune only tend to diminish the sum of superfluous enjoyment, and are, in point of fact, but little felt. If the second class has the power of making the laws, it will certainly not be lav-

ish of taxes, because nothing is so onerous as a large impost which is levied upon a small income. The government of the middle classes appears to me to be the most economical, though perhaps not the most enlightened, and certainly not the most generous, of free governments.

But let us now suppose that the legislative authority is vested in the lowest orders: there are two striking reasons which show that the tendency of the expenditure will be to increase, not to diminish. As the great majority of those who create the laws are possessed of no property upon which taxes can be imposed, all the money which is spent for the community appears to be spent for their advantage, at no cost of their own; and those who are possessed of some little property readily find means of regulating the taxes so that they are burdensome to the wealthy and profitable to the poor, although the rich are unable to take the same advantage when they are in possession of the Government.

In countries in which the poor [5] should be exclusively invested with the power of making the laws no great economy of public expenditure ought to be expected: that expenditure will always be considerable; either because the taxes do not weigh upon those who levy them, or because they are levied in such a manner as not to weigh upon those classes. In other words, the government of the democracy is the only one under which the power which lays on taxes escapes the payment of them.

It may be objected (but the argument has no real weight) that the true interest of the people is indissolubly connected with that of the wealthier portion of the community, since it can not but suffer by the severe measures to which it resorts. But is it not the true interest of kings to render their subjects happy, and the true interest of nobles to admit recruits into their order on suitable grounds? If remote advantages had power to prevail over the passions and the exigencies of the moment, no such thing as a tyrannical sovereign or an exclusive aristocracy could ever exist.

Again, it may be objected that the poor are never invested with the sole power of making the laws; but I reply, that wherever universal suffrage has been established the majority of the community unquestionably exercises the legislative authority; and if it be proved that the poor always constitute the majority, it may be added, with perfect truth, that in the countries in which they possess the elective franchise they possess the sole power of making laws. But it is certain that in all the nations of the world the greater number has always consisted of those persons who hold no property, or of those whose property is insufficient to exempt them from the necessity of working in order to procure an easy subsistence. Universal suffrage does therefore, in point of fact, invest the poor with the government of society.

The disastrous influence which popular authority may sometimes exercise upon the finances of a State was very clearly seen in some of the democratic republics of antiquity, in which the public treasure was exhausted in order to relieve indigent citizens, or to supply the games and theatrical amusements of the populace. It is true that the representative system was then very imperfectly known, and that, at the present time, the influence of popular passion is less felt in the conduct of public affairs; but it may be believed that the delegate will in the end conform to the principles of his constituents, and favour their propensities as much as their interests.

The extravagance of democracy is, however, less to be dreaded in proportion as the people acquires a share of property, because on the one hand the contributions of the rich are then less needed, and, on the other, it is more difficult to lay on taxes which do not affect the interests of the lower classes. On this account universal suffrage would be less dangerous in France than in England, because in the latter country the property on which taxes may be levied is vested in fewer hands. America, where the great majority of the citizens possess some fortune, is in a still more favourable position than France.

There are still further causes which may increase the sum of public expenditure in democratic countries. When the aristocracy governs, the individuals who conduct the affairs of State are exempted by their own station in society from every kind of privation; they are contented with their position; power and renown are the objects for which they strive; and, as they are placed far above the obscurer throng of citizens, they do not always distinctly perceive how the well-being of the mass of the people ought to redound to their own honour. They are not indeed callous to the sufferings of the poor, but they can not feel those miseries as acutely as if they were themselves partakers of them. Provided that the people appear to submit to its lot, the rulers are satisfied, and they demand nothing further from the Government. An aristocracy is more intent upon the means of maintaining its influence than upon the means of improving its condition.

When, on the contrary, the people is invested with the supreme authority, the perpetual sense of their own miseries impels the rulers of society to seek for perpetual ameliorations. A thousand different objects are subjected to improvement; the most trivial details are sought out as susceptible of amendment; and those changes which are accompanied with considerable expense are more especially advocated, since the object is to render the condition of the poor more tolerable, who can not pay for themselves.

Moreover, all democratic communities are agitated by an ill-defined excitement and by a kind of feverish impatience, that engender a multitude of innovations, almost all of which are attended with expense.

In monarchies and aristocracies the natural taste which the rulers have for power and for renown is stimulated by the promptings of ambition, and they are frequently incited by these temptations to very costly undertakings. In democracies, where the rulers labour under privations, they can only be courted by such means as improve their well-being, and these improvements can not

take place without a sacrifice of money. When a people begins to reflect upon its situation, it discovers a multitude of wants to which it had not before been subject, and to satisfy these exigencies recourse must be had to the coffers of the State. Hence it arises that the public charges increase in proportion as civilization spreads, and that imposts are augmented as knowledge pervades the community.

The last cause which frequently renders a democratic government dearer than any other is, that a democracy does not always succeed in moderating its expenditure, because it does not understand the art of being economical. As the designs which it entertains are frequently changed, and the agents of those designs are still more frequently removed, its undertakings are often ill conducted or left unfinished: in the former case the State spends sums out of all proportion to the end which it proposes to accomplish; in the second, the expense itself is unprofitable.[6]

There is a powerful reason which usually induces democracies to economize upon the salaries of public officers. As the number of citizens who dispense the remuneration is extremely large in democratic countries, so the number of persons who can hope to be benefited by the receipt of it is comparatively small. In aristocratic countries, on the contrary, the individuals who fix high salaries have almost always a vague hope of profiting by them. These appointments may be looked upon as a capital which they create for their own use, or at least as a resource for their children.

It must be allowed, however, that a democratic State is most parsimonious toward its principal agents. In America the secondary officers are much better paid, and the dignitaries of the administration much worse, than they are elsewhere.

These opposite effects result from the same cause; the people fixes the salaries of the public officers in both cases; and the scale of remuneration is determined by the consideration of its own wants. It is held to be fair that the

servants of the public should be placed in the same easy circumstances as the public itself;[7] but when the question turns upon the salaries of the great officers of State, this rule fails, and chance alone can guide the popular decision. The poor have no adequate conception of the wants which the higher classes of society may feel. The sum which is scanty to the rich appears enormous to the poor man whose wants do not extend beyond the necessaries of life; and in his estimation the Governor of a State, with his two or three hundred a year, is a very fortunate and enviable being.[8] If you undertake to convince him that the representative of a great people ought to be able to maintain some show of splendour in the eyes of foreign nations, he will perhaps assent to your meaning; but when he reflects on his own humble dwelling, and on the hard-earned produce of his wearisome toil, he remembers all that he could do with a salary which you say is insufficient, and he is startled or almost frightened at the sight of such uncommon wealth. Besides, the secondary public officer is almost on a level with the people, while the others are raised above it. The former may therefore excite his interest, but the latter begins to arouse his envy. This is very clearly seen in the United States, where the salaries seem to decrease as the authority of those who receive them augments.[9]

Under the rule of an aristocracy it frequently happens, on the contrary, that while the high officers are receiving munificent salaries, the inferior ones have not more than enough to procure the necessaries of life. The reason of this fact is easily discoverable from causes very analogous to those to which I have just alluded. If a democracy is unable to conceive the pleasures of the rich or to witness them without envy, an aristocracy is slow to understand, or, to speak more correctly, is unacquainted with, the privations of the poor. The poor man is not (if we use the term aright) the fellow of the rich one; but he is a being of another species. An aristocracy is therefore apt to care but little for the fate of its subordinate agents; and their

salaries are only raised when they refuse to perform their service for too scanty a remuneration.

It is the parsimonious conduct of democracy toward its principal officers that has countenanced a supposition of far more economical propensities than any which it really possesses. It is true that it scarcely allows the means of honourable subsistence to the individuals who conduct its affairs; but enormous sums are lavished to meet the exigencies or to facilitate the enjoyments of the people.[10] The money raised by taxation may be better employed, but it is not saved. In general, democracy gives largely to the community, and very sparingly to those who govern it. The reverse is the case in aristocratic countries, where the money of the State is expended to the profit of the persons who are at the head of affairs.

We are liable to frequent errors in the research of those facts which exercise a serious influence upon the fate of mankind, since nothing is more difficult than to appreciate their real value. One people is naturally inconsistent and enthusiastic; another is sober and calculating; and these characteristics originate in their physical constitution or in remote causes with which we are unacquainted.

There are nations which are fond of parade and the bustle of festivity, and which do not regret the costly gaieties of an hour. Others, on the contrary, are attached to more retiring pleasures, and seem almost ashamed of appearing to be pleased. In some countries the highest value is set upon the beauty of public edifices; in others the productions of art are treated with indifference, and everything which is unproductive is looked down upon with contempt. In some renown, in others money, is the ruling passion.

Independently of the laws, all these causes concur to exercise a very powerful influence upon the conduct of the finances of the State. If the Americans never spend the money of the people in galas, it is not only because the imposition of taxes is under the control of the people, but because the people takes no delight in public rejoic-

ings. If they repudiate all ornament from their architecture, and set no store on any but the more practical and homely advantages, it is not only because they live under democratic institutions, but because they are a commercial nation. The habits of private life are continued in public; and we ought carefully to distinguish that economy which depends upon their institutions from that which is the natural result of their manners and customs.

Many attempts have been made recently in France to compare the public expenditure of that country with the expenditure of the United States; all these attempts have, however, been unattended by success, and a few words will suffice to show that they could not have had a satisfactory result.

In order to estimate the amount of the public charges of a people two preliminaries are indispensable: it is necessary, in the first place, to know the wealth of that people; and in the second, to learn what portion of that wealth is devoted to the expenditure of the State. To show the amount of taxation without showing the resources which are destined to meet the demand, is to undertake a futile labour; for it is not the expenditure, but the relation of the expenditure to the revenue, which it is desirable to know.

The same rate of taxation which may be supported easily by a wealthy contributor will reduce a poor one to extreme misery. The wealth of nations is composed of several distinct elements, of which population is the first, real property the second, and personal property the third. The first of these three elements may be discovered without difficulty. Among civilized nations it is easy to obtain an accurate census of the inhabitants; but the two others can not be determined with so much facility. It is difficult to take an exact account of all the lands in a country which are under cultivation, with their natural or their acquired value; and it is still more impossible to estimate the entire personal property which is at the disposal of a nation, and which eludes the strictest analysis

by the diversity and the number of shapes under which it may occur. And, indeed, we find that the most ancient civilized nations of Europe, including even those in which the administration is most central, have not succeeded, as yet, in determining the exact condition of their wealth.

In America the attempt never has been made; for how would such an investigation be possible in a country where society has not yet settled into habits of regularity and tranquility; where the national Government is not assisted by a multitude of agents whose exertions it can command and direct to one sole end; and where statistics are not studied, because no one is able to collect the necessary documents, or to find time to peruse them? Thus the primary elements of the calculations which have been made in France can not be obtained in the Union; the relative wealth of the two countries is unknown; the property of the former is not accurately determined, and no means exist of computing that of the latter.

I consent, therefore, for the sake of the discussion, to abandon this necessary term of the comparison, and I confine myself to a computation of the actual amount of taxation, without investigating the relation which subsists between the taxation and the revenue. But the reader will perceive that my task has not been facilitated by the limits which I here lay down for my researches.

It can not be doubted that the central administration of France, assisted by all the public officers who are at its disposal, might determine with exactitude the amount of the direct and indirect taxes levied upon the citizens. But this investigation, which no private individual can undertake, has not hitherto been completed by the French Government, or, at least, its results have not been made public. We are acquainted with the sum total of the charges of the State; we know the amount of the departmental expenditure; but the expenses of the communal divisions have not been computed, and the amount of the public expenses of France is consequently unknown.

If we now turn to America, we shall perceive that the

difficulties are multiplied and enhanced. The Union publishes an exact return of the amount of its expenditure; the budgets of the four-and-twenty States furnish similar returns of their revenues; but the expenses incident to the affairs of the counties and the townships are unknown.[11]

The authority of the Federal Government can not oblige the provincial governments to throw any light upon this point; and even if these governments were inclined to afford their simultaneous co-operation, it may be doubted whether they possess the means of procuring a satisfactory answer. Independently of the natural difficulties of the task, the political organization of the country would act as a hindrance to the success of their efforts. The county and town magistrates are not appointed by the authorities of the State, and they are not subjected to their control. It is therefore very allowable to suppose that, if the State was desirous of obtaining the returns which we require, its design would be counteracted by the neglect of those subordinate officers whom it would be obliged to employ.[12] It is, in point of fact, useless to inquire what the Americans might do to forward this inquiry, since it is certain that they have hitherto done nothing at all. There does not exist a single individual at the present day, in America or in Europe, who can inform us what each citizen of the Union annually contributes to the public charges of the nation.[13]

Hence we must conclude that it is no less difficult to compare the social expenditure than it is to estimate the relative wealth of France and America. I will even add that it would be dangerous to attempt this comparison; for when statistics are not based upon computations which are strictly accurate, they mislead instead of guiding aright. The mind is easily imposed upon by the false affectation of exactness, which prevails even in the misstatements of science, and it adopts with confidence errors which are dressed in the forms of mathematical truth.

We abandon, therefore, our numerical investigation,

with the hope of meeting with data of another kind. In the absence of positive documents, we may form an opinion as to the proportion which the taxation of a people bears to its real prosperity, by observing whether its external appearance is flourishing; whether, after having discharged the calls of the State, the poor man retains the means of subsistence, and the rich the means of enjoyment; and whether both classes are contented with their position, seeking, however, to ameliorate it by perpetual exertions, so that industry is never in want of capital, nor capital unemployed by industry. The observer who draws his inferences from these signs will undoubtedly be led to the conclusion that the American of the United States contributes a much smaller portion of his income to the State than the citizen of France. Nor, indeed, can the result be otherwise.

A portion of the French debt is the consequence of two successive invasions; and the Union has no similar calamity to fear. A nation placed upon the continent of Europe is obliged to maintain a large standing army; the isolated position of the Union enables it to have only six thousand soldiers. The French have a fleet of three hundred sail; the Americans have fifty-two vessels. How, then, can the inhabitant of the Union be called upon to contribute as largely as the inhabitant of France? No parallel can be drawn between the finances of two countries so differently situated.

It is by examining what actually takes place in the Union, and not by comparing the Union with France, that we may discover whether the American Government is really economical. On casting my eyes over the different republics which form the confederation, I perceive that their Governments lack perseverance in their undertakings, and that they exercise no steady control over the men whom they employ. Whence I naturally infer that they must often spend the money of the people to no purpose, or consume more of it than is really necessary to their undertakings. Great efforts are made, in accord-

ance with the democratic origin of society, to satisfy the exigencies of the lower orders, to open the career of power to their endeavours, and to diffuse knowledge and comfort among them. The poor are maintained, immense sums are annually devoted to public instruction, all services whatsoever are remunerated, and the most subordinate agents are liberally paid. If this kind of government appears to me to be useful and rational, I am nevertheless constrained to admit that it is expensive.

Wherever the poor direct public affairs and dispose of the national resources, it appears certain that, as they profit by the expenditure of the State, they are apt to augment that expenditure.

I conclude, therefore, without having recourse to inaccurate computations, and without hazarding a comparison which might prove incorrect, that the democratic government of the Americans is not a cheap government, as is sometimes asserted; and I have no hesitation in predicting that, if the people of the United States is ever involved in serious difficulties, its taxation will speedily be increased to the rate of that which prevails in the greater part of the aristocracies and the monarchies of Europe.

A distinction must be made, when the aristocratic and the democratic principles mutually inveigh against each other, as tending to facilitate corruption. In aristocratic governments the individuals who are placed at the head of affairs are rich men, who are solely desirous of power. In democracies statesmen are poor, and they have their fortunes to make. The consequence is that in aristocratic States the rulers are rarely accessible to corruption, and have very little craving for money; while the reverse is the case in democratic nations.

But in aristocracies, as those who are desirous of arriving at the head of affairs are possessed of considerable wealth, and as the number of persons by whose assistance they may rise is comparatively small, the government is, if I may use the expression, put up to a sort of auction. In democracies, on the contrary, those who are covetous

of power are very seldom wealthy, and the number of citizens who confer that power is extremely great. Perhaps in democracies the number of men who might be bought is by no means smaller, but buyers are rarely to be met with; and, besides, it would be necessary to buy so many persons at once that the attempt is rendered nugatory.

Many of the men who have been in the administration in France during the last forty years have been accused of making their fortunes at the expense of the State or of its allies; a reproach which was rarely addressed to the public characters of the ancient monarchy. But in France the practice of bribing electors is almost unknown, while it is notoriously and publicly carried on in England. In the United States I never heard a man accused of spending his wealth in corrupting the populace; but I have often heard the probity of public officers questioned; still more frequently have I heard their success attributed to low intrigues and immoral practices.

If, then, the men who conduct the government of an aristocracy sometimes endeavour to corrupt the people, the heads of a democracy are themselves corrupt. In the former case the morality of the people is directly assailed; in the latter an indirect influence is exercised upon the people which is still more to be dreaded.

As the rulers of democratic nations are almost always exposed to the suspicion of dishonourable conduct, they in some measure lend the authority of the Government to the base practices of which they are accused. They thus afford an example which must prove discouraging to the struggles of virtuous independence, and must foster the secret calculations of a vicious ambition. If it be asserted that evil passions are displayed in all ranks of society, that they ascend the throne by hereditary right, and that despicable characters are to be met with at the head of aristocratic nations as well as in the sphere of a democracy, this objection has but little weight in my estimation. The corruption of men who have casually risen to power has a coarse and vulgar infection in it which renders it con-

tagious to the multitude. On the contrary, there is a kind of aristocratic refinement and an air of grandeur in the depravity of the great, which frequently prevent it from spreading abroad.

The people can never penetrate into the perplexing labyrinth of court intrigue, and it will always have difficulty in detecting the turpitude which lurks under elegant manners, refined tastes, and graceful language. But to pillage the public purse, and to vend the favours of the State, are arts which the meanest villain may comprehend, and hope to practise in his turn.

In reality it is far less prejudicial to witness the immorality of the great than to witness that immorality which leads to greatness. In a democracy private citizens see a man of their own rank in life, who rises from that obscure position, and who becomes possessed of riches and of power in a few years; the spectacle excites their surprise and their envy, and they are led to inquire how the person who was yesterday their equal is to-day their ruler. To attribute his rise to his talents or his virtues is unpleasant; for it is tacitly to acknowledge that they are themselves less virtuous and less talented than he was. They are therefore led (and not unfrequently their conjecture is a correct one) to impute his success mainly to some one of his defects; and an odious mixture is thus formed of the ideas of turpitude and power, unworthiness and success, utility and dishonour.

I here warn the reader that I speak of a government which implicitly follows the real desires of a people, and not a government which simply commands in its name. Nothing is so irresistible as a tyrannical power commanding in the name of the people, because, while it exercises that moral influence which belongs to the decision of the majority, it acts at the same time with the promptitude and the tenacity of a single man.

It is difficult to say what degree of exertion a democratic government may be capable of making at a crisis in the history of the nation. But no great democratic

republic has hitherto existed in the world. To style the oligarchy which ruled over France in 1793 by that name would be to offer an insult to the republican form of government. The United States afford the first example of the kind.

The American Union has now subsisted for half a century, in the course of which time its existence has only once been attacked, namely, during the War of Independence. At the commencement of that long war, various occurrences took place which betokened an extraordinary zeal for the service of the country.[14] But as the contest was prolonged, symptoms of private egotism began to show themselves. No money was poured into the public treasury; few recruits could be raised to join the army; the people wished to acquire independence, but was very ill disposed to undergo the privations by which alone it could be obtained. "Tax laws," says Hamilton in "The Federalist" (No. 12), "have in vain been multiplied; new methods to enforce the collection have in vain been tried; the public expectation has been uniformly disappointed and the treasuries of the States have remained empty. The popular system of administration inherent in the nature of popular government, coinciding with the real scarcity of money incident to a languid and mutilated state of trade, has hitherto defeated every experiment for extensive collections, and has at length taught the different legislatures the folly of attempting them."

The United States have not had any serious war to carry on since that period. In order, therefore, to appreciate the sacrifices which democratic nations may impose upon themselves, we must wait until the American people is obliged to put half its entire income at the disposal of the Government, as was done by the English; or until it sends forth a twentieth part of its population to the field of battle, as was done by France.

In America the use of conscription is unknown, and men are induced to enlist by bounties. The notions and

habits of the people of the United States are so opposed to compulsory enlistment that I do not imagine it can ever be sanctioned by the laws. What is termed the conscription in France is assuredly the heaviest tax upon the population of that country; yet how could a great continental war be carried on without it? The Americans have not adopted the British impressment of seamen, and they have nothing which corresponds to the French system of maritime conscription; the navy, as well as the merchant service, is supplied by voluntary service. But it is not easy to conceive how a people can sustain a great maritime war without having recourse to one or the other of these two systems. Indeed, the Union, which has fought with some honour upon the seas, has never possessed a very numerous fleet, and the equipment of the small number of American vessels has always been excessively expensive.

I have heard American statesmen confess that the Union will have great difficulty in maintaining its rank on the seas without adopting the system of impressment or of maritime conscription; but the difficulty is to induce the people, which exercises the supreme authority, to submit to impressment or any compulsory system.

It is incontestable that in times of danger a free people displays far more energy than one which is not so. But I incline to believe that this is more especially the case in those free nations in which the democratic element preponderates. Democracy appears to me to be much better adapted for the peaceful conduct of society, or for an occasional effort of remarkable vigour, than for the hardy and prolonged endurance of the storms which beset the political existence of nations. The reason is very evident; it is enthusiasm which prompts men to expose themselves to dangers and privations, but they will not support them long without reflection. There is more calculation, even in the impulses of bravery, than is generally attributed to them; and although the first efforts are suggested by passion, perseverance is maintained by a distinct regard of

the purpose in view. A portion of what we value is exposed, in order to save the remainder.

But it is this distinct perception of the future, founded upon a sound judgment and an enlightened experience, which is most frequently wanting in democracies. The populace is more apt to feel than to reason; and if its present sufferings are great, it is to be feared that the still greater sufferings attendant upon defeat will be forgotten. Another cause tends to render the efforts of a democratic government less persevering than those of an aristocracy. Not only are the lower classes less awakened than the higher orders to the good or evil chances of the future, but they are liable to suffer far more acutely from present privations. The noble exposes his life, indeed, but the chance of glory is equal to the chance of harm. If he sacrifices a large portion of his income to the State, he deprives himself for a time of the pleasures of affluence; but to the poor man death is embellished by no pomp or renown, and the imposts which are irksome to the rich are fatal to him.

This relative impotence of democratic republics is, perhaps, the greatest obstacle to the foundation of a republic of this kind in Europe. In order that such a State should subsist in one country of the Old World, it would be necessary that similar institutions should be introduced into all the other nations.

I am of opinion that a democratic government tends in the end to increase the real strength of society; but it can never combine, upon a single point and at a given time, so much power as an aristocracy or a monarchy. If a democratic country remained during a whole century subject to a republican government, it would probably at the end of that period be more populous and more prosperous than the neighbouring despotic States. But it would have incurred the risk of being conquered much oftener than they would in that lapse of years.

The difficulty which a democracy has in conquering the passions and in subduing the exigencies of the mo-

ment, with a view to the future, is conspicuous in the most trivial occurrences of the United States. The people, which is surrounded by flatterers, has great difficulty in surmounting its inclinations, and whenever it is solicited to undergo a privation or any kind of inconvenience, even to attain an end which is sanctioned by its own rational conviction, it almost always refuses to comply at first. The deference of the Americans to the laws has been very justly applauded; but it must be added that in America the legislation is made by the people and for the people. Consequently, in the United States, the law favours those classes which are most interested in evading it elsewhere. It may therefore be supposed that an offensive law, which should not be acknowledged to be one of immediate utility, would either not be enacted or would not be obeyed.

In America there is no law against fraudulent bankruptcies; not because they are few, but because there are a great number of bankruptcies. The dread of being prosecuted as a bankrupt acts with more intensity upon the mind of the majority of the people than the fear of being involved in losses or ruin by the failure of other parties, and a sort of guilty tolerance is extended by the public conscience to an offence which every one condemns in his individual capacity. In the new States of the southwest the citizens generally take justice into their own hands, and murders are of very frequent occurrence. This arises from the rude manners and the ignorance of the inhabitants of those deserts, who do not perceive the utility of investing the law with adequate force, and who prefer duels to prosecutions.

Some one observed to me one day, in Philadelphia, that almost all crimes in America are caused by the abuse of intoxicating liquors, which the lower classes can procure in great abundance, from their excessive cheapness. "How comes it," said I, "that you do not put a duty upon brandy?" "Our legislators," rejoined my informant, "have frequently thought of this expedient; but the task of putting it in operation is a difficult one; a revolt might

be apprehended, and the members who should vote for a law of this kind would be sure of losing their seats." "Whence I am to infer," replied I, "that the drinking population constitutes the majority in your country, and that temperance is somewhat unpopular."

When these things are pointed out to the American statesmen, they content themselves with assuring you that time will operate the necessary change, and that the experience of evil will teach the people its true interests. This is frequently true, although a democracy is more liable to error than a monarch or a body of nobles; the chances of its regaining the right path, when once it has acknowledged its mistake, are greater also; because it is rarely embarrassed by internal interests, which conflict with those of the majority, and resist the authority of reason. But a democracy can only obtain truth as the result of experience, and many nations may forfeit their existence while they are awaiting the consequences of their errors.

The great privilege of the Americans does not simply consist in their being more enlightened than other nations, but in their being able to repair the faults they may commit. To which it must be added, that a democracy can not derive substantial benefit from past experience, unless it be arrived at a certain pitch of knowledge and civilization. There are tribes and peoples whose education has been so vicious, and whose character presents so strange a mixture of passion, of ignorance, and of erroneous notions upon all subjects, that they are unable to discern the causes of their own wretchedness, and they fall a sacrifice to ills with which they are unacquainted.

I have crossed vast tracts of country that were formerly inhabited by powerful Indian nations that are now extinct; I have myself passed some time in the midst of mutilated tribes, that witness the daily decline of their numerical strength and of the glory of their independence; and I have heard these Indians themselves anticipate the impending doom of their race. Every European can per-

ceive means which would rescue these unfortunate beings from inevitable destruction. They alone are insensible to the expedient; they feel the woe which year after year heaps upon their heads, but they will perish to a man without accepting the remedy. It would be necessary to employ force to induce them to submit to the protection and the constraint of civilization.

The incessant revolutions which have convulsed the South American provinces for the last quarter of a century have frequently been adverted to with astonishment, and expectations have been expressed that those nations would speedily return to their natural state. But can it be affirmed that the turmoil of revolution is not actually the most natural state of the South American Spaniards at the present time? In that country society is plunged into difficulties from which all its efforts are insufficient to rescue it. The inhabitants of that fair portion of the Western Hemisphere seem obstinately bent on pursuing the work of inward havoc. If they fall into a momentary repose from the effects of exhaustion, that repose prepares them for a fresh state of frenzy. When I consider their condition, which alternates between misery and crime, I should be inclined to believe that despotism itself would be a benefit to them, if it were possible that the words despotism and benefit could ever be united in my mind.

We have seen that the Federal Constitution intrusts the permanent direction of the external interests of the nation to the President and the Senate,[15] which tends in some degree to detach the general foreign policy of the Union from the control of the people. It can not therefore be asserted with truth that the external affairs of State are conducted by the democracy.

The policy of America owes its rise to Washington, and after him to Jefferson, who established those principles which it observes at the present day. Washington said in the admirable letter which he addressed to his fellow-citizens, and which may be looked upon as his political bequest to the country: " The great rule of conduct

for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop. Europe has a set of primary interests which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities. Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel. Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humour, or caprice? It is our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense; but in my opinion it is unnecessary, and would be unwise, to extend them. Taking care always to keep ourselves, by suitable establishments, in a respectable defensive posture, we may safely trust to temporary alliances for

extraordinary emergencies." In a previous part of the same letter Washington makes the following admirable and just remark: "The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest."

The political conduct of Washington was always guided by these maxims. He succeeded in maintaining his country in a state of peace while all the other nations of the globe were at war; and he laid it down as a fundamental doctrine, that the true interest of the Americans consisted in a perfect neutrality with regard to the internal dissensions of the European Powers.

Jefferson went still further, and introduced a maxim into the policy of the Union which affirms that "the Americans ought never to solicit any privileges from foreign nations, in order not to be obliged to grant similar privileges themselves."

These two principles, which were so plain and so just as to be adapted to the capacity of the populace, have greatly simplified the foreign policy of the United States. As the Union takes no part in the affairs of Europe, it has, properly speaking, no foreign interests to discuss, since it has at present no powerful neighbours on the American continent. The country is as much removed from the passions of the Old World by its position as by the line of policy which it has chosen, and it is neither called upon to repudiate nor to espouse the conflicting interests of Europe; while the dissensions of the New World are still concealed within the bosom of the future.

The Union is free from all pre-existing obligations, and it is consequently enabled to profit by the experience of the old nations of Europe, without being obliged, as they are, to make the best of the past, and to adapt it to their present circumstances; or to accept that immense inheritance which they derive from their forefathers—an inheritance of glory mingled with calamities, and of alli-

ances conflicting with national antipathies. The foreign policy of the United States is reduced by its very nature to await the chances of the future history of the nation, and for the present it consists more in abstaining from interference than in exerting its activity.

It is therefore very difficult to ascertain at present what degree of sagacity the American democracy will display in the conduct of the foreign policy of the country; and upon this point its adversaries, as well as its advocates, must suspend their judgment. As for myself, I have no hesitation in avowing my conviction that it is most especially in the conduct of foreign relations that democratic governments appear to me to be decidedly inferior to governments carried on upon different principles. Experience, instruction, and habit may almost always succeed in creating a species of practical discretion in democracies, and that science of the daily occurrences of life which is called good sense. Good sense may suffice to direct the ordinary course of society; and among a people whose education has been provided for, the advantages of democratic liberty in the internal affairs of the country may more than compensate for the evils inherent in a democratic government. But such is not always the case in the mutual relations of foreign nations.

Foreign politics demand scarcely any of those qualities which a democracy possesses; and they require, on the contrary, the perfect use of almost all those faculties in which it is deficient. Democracy is favourable to the increase of the internal resources of the State; it tends to diffuse a moderate independence; it promotes the growth of public spirit, and fortifies the respect which is entertained for law in all classes of society; and these are advantages which only exercise an indirect influence over the relations which one people bears to another. But a democracy is unable to regulate the details of an important undertaking, to persevere in a design, and to work out its execution in the presence of serious obstacles. It can not combine its measures with secrecy, and it will

not await their consequences with patience. These are qualities which more especially belong to an individual or to an aristocracy; and they are precisely the means by which an individual people attains to a predominant position.

If, on the contrary, we observe the natural defects of aristocracy, we shall find that their influence is comparatively innoxious in the direction of the external affairs of a State. The capital fault of which aristocratic bodies may be accused is that they are more apt to contrive their own advantage than that of the mass of the people. In foreign politics it is rare for the interest of the aristocracy to be in any way distinct from that of the people.

The propensity which democracies have to obey the impulse of passion rather than the suggestions of prudence, and to abandon a mature design for the gratification of a momentary caprice, was very clearly seen in America on the breaking out of the French Revolution. It was then as evident to the simplest capacity as it is at the present time that the interest of the Americans forbade them to take any part in the contest which was about to deluge Europe with blood, but which could by no means injure the welfare of their own country. Nevertheless, the sympathies of the people declared themselves with so much violence in behalf of France that nothing but the inflexible character of Washington, and the immense popularity which he enjoyed, could have prevented the Americans from declaring war against England. And even then, the exertions which the austere reason of that great man made to repress the generous but imprudent passions of his fellow-citizens, very nearly deprived him of the sole recompense which he had ever claimed—that of his country's love. The majority then reprobated the line of policy which he adopted, and which has since been unanimously approved by the nation.[16] If the Constitution and the favour of the public had not intrusted the direction of the foreign affairs of the country to Washington, it is certain

that the American nation would at that time have taken the very measures which it now condemns.

Almost all the nations which have ever exercised a powerful influence upon the destinies of the world by conceiving, following up, and executing vast designs—from the Romans to the English—have been governed by aristocratic institutions. Nor will this be a subject of wonder when we recollect that nothing in the world has so absolute a fixity of purpose as an aristocracy. The mass of the people may be led astray by ignorance or passion; the mind of a king may be biassed, and his perseverance in his designs may be shaken—besides which a king is not immortal. But an aristocratic body is too numerous to be led astray by the blandishments of intrigue, and yet not numerous enough to yield readily to the intoxicating influence of unreflecting passion: it has the energy of a firm and enlightened individual, added to the power which it derives from its perpetuity.

NOTES

[1] I here use the word magistrates in the widest sense in which it can be taken; I apply it to all the officers to whom the execution of the laws is intrusted.

[2] See the Act of February 27, 1813. "General Collection of the Laws of Massachusetts," vol. ii, p. 331. It should be added that the jurors are afterward drawn from these lists by lot.

[3] See Act of February 28, 1787. "General Collection of the Laws of Massachusetts," vol. i, p. 302.

[4] It is needless to observe that I speak here of the democratic form of government as applied to a people, not merely to a tribe.

[5] The word poor is used here, and throughout the remainder of this chapter, in a relative, not in an absolute sense. Poor men in America would often appear rich in comparison with the poor of Europe; but they may with propriety be styled poor in comparison with their more affluent countrymen.

[6] The gross receipts of the Treasury of the United States in 1832 were about 28 millions of dollars; in 1870 they had risen to 411 millions of dollars. The gross expenditure in 1832 was 30 millions of dollars; in 1870, 309 millions of dollars.

[7] The easy circumstances in which secondary functionaries are placed in the United States result also from another cause, which is independent of the general tendencies of democracy; every kind of private business is very lucrative, and the State would not be served at all if it did not pay

its servants. The country is in the position of a commercial undertaking, which is obliged to sustain an expensive competition, notwithstanding its tastes for economy.

[8] The State of Ohio, which contains a million of inhabitants, gives its Governor a salary of only 1,200 dollars (£260) a year.

[9] To render this assertion perfectly evident, it will suffice to examine the scale of salaries of the agents of the Federal Government. I have added the salaries attached to the corresponding officers in France under the constitutional monarchy to complete the comparison.

UNITED STATES.		FRANCE.	
Treasury Department.		Ministère de Finances.	
Messenger . . .	$700 (150*l.*)	Huissier . . .	1,500 fr. (60*l.*)
Clerk with lowest salary . . .	$1,000 (217*l.*)	Clerk with lowest salary	1,000 to 1,800 fr. (40*l.* to 72*l.*)
Clerk with highest salary . . .	$1,600 (347*l.*)	Clerk with highest salary	3,206 to 8,600 fr. (128*l.* to 134*l.*)
Chief Clerk . .	$2,000 (434*l.*)	Secrétaire-général	20,000 fr. (800*l.*)
Secretary of State	$6,000 (1,300*l.*)	The Minister .	80,000 fr. (3,200*l.*)
The President .	$25,000 (5,400*l.*)	The King .	12,000,000 (fr. 480,000.)

I have perhaps done wrong in selecting France as my standard of comparison. In France the democratic tendencies of the nation exercise an ever-increasing influence upon the Government, and the Chambers show a disposition to raise the low salaries and to lower the principal ones. Thus, the Minister of Finance, who received 160,000 fr. under the Empire, receives 80,000 fr. in 1831 ; the Directeurs-Généraux of Finance, who then received 50,000 fr. now receive only 20,000 fr. [This comparison is based on the state of things existing in France and the United States in 1831. It has since materially altered in both countries, but not so much as to impugn the truth of the author's observation.—1870.]

[10] See the American budgets for the cost of indigent citizens and gratuitous instruction. In 1831, 50,000*l.* were spent in the State of New York for the maintenance of the poor, and at least 200,000*l.* were devoted to gratuitous instruction. ("Williams's New York Annual Register, 1832, pp. 205 and 243.) The State of New York contained only 1,900,000 inhabitants in the year 1830, which is not more than double the amount of population in the Département du Nord in France.

[11] The Americans, as we have seen, have four separate budgets, the Union, the States, the Counties, and the Townships having each severally their own. During my stay in America I made every endeavour to discover the amount of the public expenditure in the townships and counties of the principal States of the Union, and I readily obtained the budget of the larger townships, but I found it quite impossible to procure that of the smaller ones. I possess, however, some documents relating to county expenses, which, although incomplete, are still curious. I have to thank Mr. Richards, Mayor of Philadelphia, for the budgets of thirteen of the counties of Pennsylvania—viz., Lebanon, Centre, Franklin, Fayette, Montgomery, Luzerne, Dauphin, Butler, Alleghany, Columbia, Northampton, Northumberland, and Philadelphia—for the year 1830. Their population at that time consisted of 495,207 inhabitants. On look-

ing at the map of Pennsylvania it will be seen that these thirteen counties are scattered in every direction, and so generally affected by the causes which usually influence the conditions of a country that they may easily be supposed to furnish a correct average of the financial state of the counties of Pennsylvania in general; and thus, upon reckoning that the expenses of these counties amounted in the year 1830 to about 72,330*l.*, or nearly 3*s.* for each inhabitant, and calculating that each of them contributed in the same year about 10*s.* 2*d.* toward the Union, and about 3*s.* to the State of Pennsylvania, it appears that they each contributed as their share of all the public expenses (except those of the townships) the sum of 16*s.* 2*d.* This calculation is doubly incomplete, as it applies only to a single year and to one part of the public charges; but it has at least the merit of not being conjectural.

[12] Those who have attempted to draw a comparison between the expenses of France and America have at once perceived that no such comparison could be drawn between the total expenditure of the two countries; but they have endeavoured to contrast detached portions of this expenditure. It may readily be shown that this second system is not at all less defective than the first. If I attempt to compare the French budget with the budget of the Union, it must be remembered that the latter embraces much fewer objects than the central Government of the former country, and that the expenditure must consequently be much smaller. If I contrast the budgets of the Departments with those of the States which constitute the Union, it must be observed that, as the power and control exercised by the States is much greater than that which is exercised by the Departments, their expenditure is also more considerable. As for the budgets of the counties, nothing of the kind occurs in the French system of finances; and it is, again, doubtful whether the corresponding expenses should be referred to the budget of the State or to those of the municipal divisions. Municipal expenses exist in both countries, but they are not always analogous. In America the townships discharge a variety of offices which are reserved in France to the Departments or to the State. It may, moreover, be asked what is to be understood by the municipal expenses of America. The organization of the municipal bodies or townships differs in the several States. Are we to be guided by what occurs in New England or in Georgia, in Pennsylvania or in the State of Illinois? A kind of analogy may very readily be perceived between certain budgets in the two countries; but as the elements of which they are composed always differ more or less, no fair comparison can be instituted between them.

[13] Even if we knew the exact pecuniary contributions of every French and American citizen to the coffers of the State, we should only come at a portion of the truth. Governments do not only demand supplies of money, but they call for personal services, which may be looked upon as equivalent to a given sum. When a State raises an army, besides the pay of the troops, which is furnished by the entire nation, each soldier must give up his time, the value of which depends on the use he might make of it if he were not in the service. The same remark applies to the militia; the citizen who is in the militia devotes a certain portion of valuable time to the maintenance of the public peace, and in reality surrenders to

the State those earnings which he is prevented from gaining. Many other instances might be cited in addition to these. The Governments of France and of America both levy taxes of this kind, which weigh upon the citizens; but who can estimate with accuracy their relative amount in the two countries?

This, however, is not the last of the difficulties which prevent us from comparing the expenditure of the Union with that of France. The French Government contracts certain obligations which do not exist in America, and vice versa. The French Government pays the clergy; in America the voluntary principle prevails. In America there is a legal provision for the poor; in France they are abandoned to the charity of the public. The French public officers are paid by a fixed salary; in America they are allowed certain perquisites. In France contributions in kind take place on very few roads; in America upon almost all the thoroughfares: in the former country the roads are free to all travellers; in the latter turnpikes abound. All these differences in the manner in which contributions are levied in the two countries enhance the difficulty of comparing their expenditure; for there are certain expenses which the citizens would not be subject to, or which would at any rate be much less considerable, if the State did not take upon itself to act in the name of the public.

[14] One of the most singular of these occurrences was the resolution which the Americans took of temporarily abandoning the use of tea. Those who know that men usually cling more to their habits than to their life will doubtless admire this great though obscure sacrifice which was made by a whole people.

[15] "The President," says the Constitution, Art. II, sec. 2, § 2, "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur." The reader is reminded that the senators are returned for a term of six years, and that they are chosen by the Legislature of each State.

[16] See the fifth volume of Marshall's "Life of Washington." "In a government constituted like that of the United States," he says, "it is impossible for the chief magistrate, however firm he may be, to oppose for any length of time the torrent of popular opinion; and the prevalent opinion of that day seemed to incline to war. In fact, in the session of Congress held at the time, it was frequently seen that Washington had lost the majority in the House of Representatives." The violence of the language used against him in public was extreme, and in a political meeting they did not scruple to compare him indirectly to the treacherous Arnold. "By the opposition," says Marshall, "the friends of the administration were declared to be an aristocratic and corrupt faction, who, from a desire to introduce monarchy, were hostile to France and under the influence of Britain; that they were a paper nobility, whose extreme sensibility at every measure which threatened the funds, induced a tame submission to injuries and insults, which the interests and honour of the nation required them to resist."

CHAPTER XIV

THE REAL ADVANTAGES THAT AMERICAN SOCIETY DERIVES FROM DEMOCRATIC GOVERNMENT

General tendency of the laws under the rule of the American democracy, and habits of those who apply them—Public spirit in the United States—Notion of rights in the United States—Respect for the law in the United States—Activity which pervades all the branches of the body politic in the United States; influence which it exercises upon society.

BEFORE I enter upon the subject of the present chapter I am induced to remind the reader of what I have more than once adverted to in the course of this book. The political institutions of the United States appear to me to be one of the forms of government which a democracy may adopt; but I do not regard the American Constitution as the best, or as the only one, which a democratic people may establish. In showing the advantages which the Americans derive from the government of democracy, I am therefore very far from meaning, or from believing, that similar advantages can only be obtained from the same laws.

The defects and the weaknesses of a democratic government may be discovered very readily; they are demonstrated by the most flagrant instances, while its beneficial influence is less perceptibly exercised. A single glance suffices to detect its evil consequences, but its good qualities can only be discerned by long observation. The laws of the American democracy are frequently defective or incomplete; they sometimes attack vested rights, or give a sanction to others which are dangerous to the community; but even if they were good, the frequent changes

which they undergo would be an evil. How comes it, then, that the American republics prosper and maintain their position?

In the consideration of laws a distinction must be carefully observed between the end at which they aim and the means by which they are directed to that end, between their absolute and their relative excellence. If it be the intention of the legislator to favour the interests of the minority at the expense of the majority, and if the measures he takes are so combined as to accomplish the object he has in view with the least possible expense of time and exertion, the law may be well drawn up, although its purpose be bad; and the more efficacious it is, the greater is the mischief which it causes.

Democratic laws generally tend to promote the welfare of the greatest possible number; for they emanate from the majority of the citizens, who are subject to error, but who can not have an interest opposed to their own advantage. The laws of an aristocracy tend, on the contrary, to concentrate wealth and power in the hands of the minority, because an aristocracy, by its very nature, constitutes a minority. It therefore may be asserted, as a general proposition, that the purpose of a democracy in the conduct of its legislation is useful to a greater number of citizens than that of an aristocracy. This is, however, the sum total of its advantages.

Aristocracies are infinitely more expert in the science of legislation than democracies ever can be. They are possessed of a self-control which protects them from the errors of temporary excitement, and they form lasting designs which they mature with the assistance of favourable opportunities. Aristocratic government proceeds with the dexterity of art; it understands how to make the collective force of all its laws converge at the same time to a given point. Such is not the case with democracies, whose laws are almost always ineffective or inopportune. The means of democracy are therefore more imperfect than those of aristocracy, and the measures which it un-

wittingly adopts are frequently opposed to its own cause; but the object it has in view is more useful.

Let us now imagine a community so organized by nature, or by its constitution, that it can support the transitory action of bad laws, and that it can await, without destruction, the general tendency of the legislation: we shall then be able to conceive that a democratic government, notwithstanding its defects, will be most fitted to conduce to the prosperity of this community. This is precisely what has occurred in the United States; and I repeat, what I have before remarked, that the great advantage of the Americans consists in their being able to commit faults which they may afterward repair.

An analogous observation may be made respecting public officers. It is easy to perceive that the American democracy frequently errs in the choice of the individuals to whom it intrusts the power of the administration; but it is more difficult to say why the State prospers under their rule. In the first place, it is to be remarked that if in a democratic State the governors have less honesty and less capacity than elsewhere, the governed, on the other hand, are more enlightened and more attentive to their interests. As the people in democracies is more incessantly vigilant in its affairs and more jealous of its rights, it prevents its representatives from abandoning that general line of conduct which its own interest prescribes. In the second place, it must be remembered that if the democratic magistrate is more apt to misuse his power, he possesses it for a shorter period of time. But there is yet another reason which is still more general and conclusive. It is no doubt of importance to the welfare of nations that they should be governed by men of talents and virtue: but it is perhaps still more important that the interests of those men should not differ from the interests of the community at large; for, if such were the case, virtues of a high order might become useless, and talents might be turned to a bad account. I say that it is important that the interests of the persons in authority should not con-

flict with or oppose the interests of the community at large; but I do not insist upon their having the same interests as the whole population, because I am not aware that such a state of things ever existed in any country.

No political form has been discovered hitherto which is equally favourable to the prosperity and the development of all the classes into which society is divided. These classes continue to form, as it were, a certain number of distinct nations in the same nation; and experience has shown that it is no less dangerous to place the fate of these classes exclusively in the hands of any one of them than it is to make one people the arbiter of the destiny of another. When the rich alone govern, the interest of the poor is always endangered; and when the poor make the laws, that of the rich incurs very serious risks. The advantage of democracy does not consist, therefore, as has sometimes been asserted, in favouring the prosperity of all, but simply in contributing to the well-being of the greatest possible number.

The men who are intrusted with the direction of public affairs in the United States are frequently inferior, both in point of capacity and of morality, to those whom aristocratic institutions would raise to power. But their interest is identified and confounded with that of the majority of their fellow-citizens. They may frequently be faithless and frequently mistaken, but they will never systematically adopt a line of conduct opposed to the will of the majority; and it is impossible that they should give a dangerous or an exclusive tendency to the government.

The maladministration of a democratic magistrate is a mere isolated fact, which only occurs during the short period for which he is elected. Corruption and incapacity do not act as common interests, which may connect men permanently with one another. A corrupt or an incapable magistrate will not concert his measures with another magistrate, simply because that individual is as corrupt and as incapable as himself; and these two men will never unite their endeavours to promote the corruption and in-

aptitude of their remote posterity. The ambition and the manœuvres of the one will serve, on the contrary, to unmask the other. The vices of a magistrate, in democratic states, are usually peculiar to his own person.

But under aristocratic governments public men are swayed by the interest of their order, which, if it is sometimes confounded with the interests of the majority, is very frequently distinct from them. This interest is the common and lasting bond which unites them together; it induces them to coalesce, and to combine their efforts in order to attain an end which does not always insure the greatest happiness of the greatest number; and it serves not only to connect the persons in authority, but to unite them to a considerable portion of the community, since a numerous body of citizens belongs to the aristocracy, without being invested with official functions. The aristocratic magistrate is therefore constantly supported by a portion of the community, as well as by the Government of which he is a member.

The common purpose which connects the interest of the magistrates in aristocracies with that of a portion of their contemporaries identifies it with that of future generations; their influence belongs to the future as much as to the present. The aristocratic magistrate is urged at the same time toward the same point by the passions of the community, by his own, and I may almost add by those of his posterity. Is it, then, wonderful that he does not resist such repeated impulses? And, indeed, aristocracies are often carried away by the spirit of their order without being corrupted by it; and they unconsciously fashion society to their own ends, and prepare it for their own descendants.

The English aristocracy is perhaps the most liberal which ever existed, and no body of men has ever uninterruptedly furnished so many honourable and enlightened individuals to the government of a country. It can not, however, escape observation that in the legislation of England the good of the poor has been sacrificed to the advan-

tage of the rich, and the rights of the majority to the privileges of the few. The consequence is, that England, at the present day, combines the extremes of fortune in the bosom of her society, and her perils and calamities are almost equal to her power and her renown.

In the United States, where the public officers have no interests to promote connected with their caste, the general and constant influence of the Government is beneficial, although the individuals who conduct it are frequently unskilful and sometimes contemptible. There is, indeed, a secret tendency in democratic institutions to render the exertions of the citizens subservient to the prosperity of the community, notwithstanding their private vices and mistakes; while in aristocratic institutions there is a secret propensity which, notwithstanding the talents and the virtues of those who conduct the government, leads them to contribute to the evils which oppress their fellow-creatures. In aristocratic governments public men may frequently do injuries which they do not intend, and in democratic states they produce advantages which they never thought of.

There is one sort of patriotic attachment which principally arises from that instinctive, disinterested, and undefinable feeling which connects the affections of man with his birthplace. This natural fondness is united to a taste for ancient customs, and to a reverence for ancestral traditions of the past; those who cherish it love their country as they love the mansion of their fathers. They enjoy the tranquility which it affords them; they cling to the peaceful habits which they have contracted within its bosom; they are attached to the reminiscences which it awakens, and they are even pleased by the state of obedience in which they are placed. This patriotism is sometimes stimulated by religious enthusiasm, and then it is capable of making the most prodigious efforts. It is in itself a kind of religion; it does not reason, but it acts from the impulse of faith and of sentiment. By some nations the monarch has been regarded as a personifica-

tion of the country; and the fervour of patriotism being converted into the fervour of loyalty, they took a sympathetic pride in his conquests, and gloried in his power. At one time, under the ancient monarchy, the French felt a sort of satisfaction in the sense of their dependence upon the arbitrary pleasure of their king, and they were wont to say with pride, "We are the subjects of the most powerful king in the world."

But, like all instinctive passions, this kind of patriotism is more apt to prompt transient exertion than to supply the motives of continuous endeavour. It may save the State in critical circumstances, but it will not infrequently allow the nation to decline in the midst of peace. While the manners of a people are simple and its faith unshaken, while society is steadily based upon traditional institutions whose legitimacy has never been contested, this instinctive patriotism is wont to endure.

But there is another species of attachment to a country which is more rational than the one we have been describing. It is perhaps less generous and less ardent, but it is more fruitful and more lasting; it is coeval with the spread of knowledge, it is nurtured by the laws, it grows by the exercise of civil rights, and, in the end, it is confounded with the personal interest of the citizen. A man comprehends the influence which the prosperity of his country has upon his own welfare; he is aware that the laws authorize him to contribute his assistance to that prosperity, and he labours to promote it as a portion of his interest in the first place, and as a portion of his right in the second.

But epochs sometimes occur, in the course of the existence of a nation, at which the ancient customs of a people are changed, public morality destroyed, religious belief disturbed, and the spell of tradition broken, while the diffusion of knowledge is yet imperfect, and the civil rights of the community are ill secured, or confined within very narrow limits. The country then assumes a dim and dubious shape in the eyes of the citizens; they no longer behold it in the soil which they inhabit, for that soil is to

them a dull inanimate clod; nor in the usages of their forefathers, which they have been taught to look upon as a debasing yoke; nor in religion, for of that they doubt; nor in the laws, which do not originate in their own authority; nor in the legislator, whom they fear and despise. The country is lost to their senses, they can neither discover it under its own nor under borrowed features, and they intrench themselves within the dull precincts of a narrow egotism. They are emancipated from prejudice without having acknowledged the empire of reason; they are neither animated by the instinctive patriotism of monarchical subjects nor by the thinking patriotism of republican citizens; but they have stopped half-way between the two, in the midst of confusion and of distress.

In this predicament, to retreat is impossible; for a people can not restore the vivacity of its earlier times, any more than a man can return to the innocence and the bloom of childhood; such things may be regretted, but they can not be renewed. The only thing, then, which remains to be done is to proceed, and to accelerate the union of private with public interests, since the period of disinterested patriotism is gone by forever.

I am certainly very far from averring that, in order to obtain this result, the exercise of political rights should be immediately granted to all the members of the community. But I maintain that the most powerful, and perhaps the only, means of interesting men in the welfare of their country which we still possess is to make them partakers in the Government. At the present time civic zeal seems to me to be inseparable from the exercise of political rights; and I hold that the number of citizens will be found to augment or to decrease in Europe in proportion as those rights are extended.

In the United States the inhabitants were thrown but as yesterday upon the soil which they now occupy, and they brought neither customs nor traditions with them there; they meet each other for the first time with no previous acquaintance; in short, the instinctive love of their

country can scarcely exist in their minds; but every one takes as zealous an interest in the affairs of his township, his county, and of the whole State, as if they were his own, because every one, in his sphere, takes an active part in the government of society.

The lower orders in the United States are alive to the perception of the influence exercised by the general prosperity upon their own welfare; and simple as this observation is, it is one which is but too rarely made by the people. But in America the people regards this prosperity as the result of its own exertions; the citizen looks upon the fortune of the public as his private interest, and he cooperates in its success, not so much from a sense of pride or of duty, as from what I shall venture to term cupidity.

It is unnecessary to study the institutions and the history of the Americans in order to discover the truth of this remark, for their manners render it sufficiently evident. As the American participates in all that is done in his country, he thinks himself obliged to defend whatever may be censured; for it is not only his country which is attacked upon these occasions, but it is himself. The consequence is, that his national pride resorts to a thousand artifices, and to all the petty tricks of individual vanity.

Nothing is more embarrassing in the ordinary intercourse of life than this irritable patriotism of the Americans. A stranger may be very well inclined to praise many of the institutions of their country, but he begs permission to blame some of the peculiarities which he observes —a permission which is, however, inexorably refused. America is therefore a free country, in which, lest anybody should be hurt by your remarks, you are not allowed to speak freely of private individuals or of the State, of the citizens or of the authorities, of public or of private undertakings, or, in short, of anything at all, except it be of the climate and the soil; and even then Americans will be found ready to defend either the one or the other, as if they had been contrived by the inhabitants of the country.

In our times option must be made between the patriot-

ism of all and the government of a few; for the force and activity which the first confers are irreconcilable with the guarantees of tranquility which the second furnishes.

After the idea of virtue, I know no higher principle than that of right; or, to speak more accurately, these two ideas are commingled in one. The idea of right is simply that of virtue introduced into the political world. It is the idea of right which enabled men to define anarchy and tyranny; and which taught them to remain independent without arrogance, as well as to obey without servility. The man who submits to violence is debased by his compliance; but when he obeys the mandate of one who possesses that right of authority which he acknowledges in a fellow-creature, he rises in some measure above the person who delivers the command. There are no great men without virtue, and there are no great nations—it may almost be added that there would be no society—without the notion of rights; for what is the condition of a mass of rational and intelligent beings who are only united together by the bond of force?

I am persuaded that the only means which we possess at the present time of inculcating the notion of rights, and of rendering it, as it were, palpable to the senses, is to invest all the members of the community with the peaceful exercise of certain rights: this is very clearly seen in children, who are men without the strength and the experience of manhood. When a child begins to move in the midst of the objects which surround him, he is instinctively led to turn everything which he can lay his hands upon to his own purposes; he has no notion of the property of others; but as he gradually learns the value of things, and begins to perceive that he may in his turn be deprived of his possessions, he becomes more circumspect, and he observes those rights in others which he wishes to have respected in himself. The principle which the child derives from the possession of his toys is taught to the man by the objects which he may call his own. In America those complaints against property in

general which are so frequent in Europe are never heard, because in America there are no paupers; and as every one has property of his own to defend, every one recognises the principle upon which he holds it.

The same thing occurs in the political world. In America the lowest classes have conceived a very high notion of political rights, because they exercise those rights; and they refrain from attacking those of other people, in order to insure their own from attack. While in Europe the same classes sometimes recalcitrate even against the supreme power, the American submits without a murmur to the authority of the pettiest magistrate.

This truth is exemplified by the most trivial details of national peculiarities. In France very few pleasures are exclusively reserved for the higher classes; the poor are admitted wherever the rich are received, and they consequently behave with propriety, and respect whatever contributes to the enjoyments in which they themselves participate. In England, where wealth has a monopoly of amusement as well as of power, complaints are made that whenever the poor happen to steal into the inclosures which are reserved for the pleasures of the rich, they commit acts of wanton mischief: can this be wondered at, since care has been taken that they should have nothing to lose?

The government of democracy brings the notion of political rights to the level of the humblest citizens, just as the dissemination of wealth brings the notion of property within the reach of all the members of the community; and I confess that, to my mind, this is one of its greatest advantages. I do not assert that it is easy to teach men to exercise political rights; but I maintain that, when it is possible, the effects which result from it are highly important; and I add that, if there ever was a time at which such an attempt ought to be made, that time is our own. It is clear that the influence of religious belief is shaken, and that the notion of divine rights is declining; it is evident that public morality is vitiated, and the notion of

moral rights is also disappearing: these are general symptoms of the substitution of argument for faith, and of calculation for the impulses of sentiment. If, in the midst of this general disruption, you do not succeed in connecting the notion of rights with that of personal interest, which is the only immutable point in the human heart, what means will you have of governing the world except by fear? When I am told that, since the laws are weak and the populace is wild, since passions are excited and the authority of virtue is paralyzed, no measures must be taken to increase the rights of the democracy, I reply, that it is for these very reasons that some measures of the kind must be taken; and I am persuaded that governments are still more interested in taking them than society at large, because governments are liable to be destroyed and society can not perish.

I am not, however, inclined to exaggerate the example which America furnishes. In those States the people were invested with political rights at a time when they could scarcely be abused, for the citizens were few in number and simple in their manners. As they have increased, the Americans have not augmented the power of the democracy, but they have, if I may use the expression, extended its dominions.

It can not be doubted that the moment at which political rights are granted to a people that before has been without them is a very critical, though it be a necessary, one. A child may kill before he is aware of the value of life; and he may deprive another person of his property before he is aware that his own may be taken away from him. The lower orders, when first they are invested with political rights, stand, in relation to those rights, in the same position as the child does to the whole of Nature, and the celebrated adage may then be applied to them, Homo puer robustus. This truth may even be perceived in America. The States in which the citizens have enjoyed their rights longest are those in which they make the best use of them.

It can not be repeated too often that nothing is more fertile in prodigies than the art of being free; but there is nothing more arduous than the apprenticeship of liberty. Such is not the case with despotic institutions: despotism often promises to make amends for a thousand previous ills; it supports the right, it protects the oppressed, and it maintains public order. The nation is lulled by the temporary prosperity which accrues to it, until it is roused to a sense of its own misery. Liberty, on the contrary, is generally established in the midst of agitation, it is perfected by civil discord, and its benefits can not be appreciated until it is already old.

It is not always feasible to consult the whole people, either directly or indirectly, in the formation of the law; but it can not be denied that, when such a measure is possible, the authority of the law is very much augmented. This popular origin, which impairs the excellence and the wisdom of legislation, contributes prodigiously to increase its power. There is an amazing strength in the expression of the determination of a whole people, and when it declares itself the imagination of those who are most inclined to contest it is overawed by its authority. The truth of this fact is very well known by parties, and they consequently strive to make out a majority whenever they can. If they have not the greater number of voters on their side, they assert that the true majority abstained from voting; and if they are foiled even there, they have recourse to the body of those persons who had no votes to give.

In the United States, except slaves, servants, and paupers in the receipt of relief from the townships, there is no class of persons who do not exercise the elective franchise, and who do not indirectly contribute to make the laws. Those who design to attack the laws must consequently either modify the opinion of the nation or trample upon its decision.

A second reason, which is still more weighty, may be further adduced: in the United States every one is per-

sonally interested in enforcing the obedience of the whole community to the law; for as the minority may shortly rally the majority to its principles, it is interested in professing that respect for the decrees of the legislator which it may soon have occasion to claim for its own. However irksome an enactment may be, the citizen of the United States complies with it, not only because it is the work of the majority, but because it originates in his own authority, and he regards it as a contract to which he is himself a party.

In the United States, then, that numerous and turbulent multitude does not exist which always looks upon the law as its natural enemy, and accordingly surveys it with fear and with distrust. It is impossible, on the other hand, not to perceive that all classes display the utmost reliance upon the legislation of their country, and that they are attached to it by a kind of parental affection.

I am wrong, however, in saying all classes; for as in America the European scale of authority is inverted, the wealthy are there placed in a position analogous to that of the poor in the Old World, and it is the opulent classes which frequently look upon the law with suspicion. I have already observed that the advantage of democracy is not, as has been sometimes asserted, that it protects the interests of the whole community, but simply that it protects those of the majority. In the United States, where the poor rule, the rich have always some reason to dread the abuses of their power. This natural anxiety of the rich may produce a sullen dissatisfaction, but society is not disturbed by it; for the same reason which induces the rich to withhold their confidence in the legislative authority makes them obey its mandates; their wealth, which prevents them from making the law, prevents them from withstanding it. Among civilized nations revolts are rarely excited, except by such persons as have nothing to lose by them; and if the laws of a democracy are not always worthy of respect, at least they always obtain it; for those who usually infringe the laws have no excuse

for not complying with the enactments they have themselves made, and by which they are themselves benefited, while the citizens whose interests might be promoted by the infraction of them are induced, by their character and their stations, to submit to the decisions of the legislature, whatever they may be. Besides which, the people in America obeys the law not only because it emanates from the popular authority, but because that authority may modify it in any points which may prove vexatious; a law is observed because it is a self-imposed evil in the first place, and an evil of transient duration in the second.

On passing from a country in which free institutions are established to one where they do not exist, the traveller is struck by the change; in the former all is bustle and activity, in the latter everything is calm and motionless. In the one, amelioration and progress are the general topics of inquiry; in the other, it seems as if the community only aspired to repose in the enjoyment of the advantages which it has acquired. Nevertheless, the country which exerts itself so strenuously to promote its welfare is generally more wealthy and more prosperous than that which appears to be so contented with its lot; and when we compare them together, we can scarcely conceive how so many new wants are daily felt in the former, while so few seem to occur in the latter.

If this remark is applicable to those free countries in which monarchical and aristocratic institutions subsist, it is still more striking with regard to democratic republics. In these States it is not only a portion of the people which is busied with the amelioration of its social condition, but the whole community is engaged in the task; and it is not the exigencies and the convenience of a single class for which a provision is to be made, but the exigencies and the convenience of all ranks of life.

It is not impossible to conceive the surpassing liberty which the Americans enjoy; some idea may likewise be formed of the extreme equality which subsists among them, but the political activity which pervades the United

States must be seen in order to be understood. No sooner do you set foot upon American soil than you are stunned by a kind of tumult; a confused clamour is heard on every side; and a thousand simultaneous voices demand the immediate satisfaction of their social wants. Everything is in motion around you; here, the people of one quarter of a town are met to decide upon the building of a church; there, the election of a representative is going on; a little farther the delegates of a district are posting to the town in order to consult upon some local improvements; or in another place the labourers of a village quit their ploughs to deliberate upon the project of a road or a public school. Meetings are called for the sole purpose of declaring their disapprobation of the line of conduct pursued by the Government; while in other assemblies the citizens salute the authorities of the day as the fathers of their country. Societies are formed which regard drunkenness as the principal cause of the evils under which the State labours, and which solemnly bind themselves to give a constant example of temperance.[1]

The great political agitation of the American legislative bodies, which is the only kind of excitement that attracts the attention of foreign countries, is a mere episode or a sort of continuation of that universal movement which originates in the lowest classes of the people and extends successively to all the ranks of society. It is impossible to spend more efforts in the pursuit of enjoyment.

The cares of political life take a most prominent place in the occupation of a citizen in the United States, and almost the only pleasure of which an American has any idea is to take a part in the Government, and to discuss the part he has taken. This feeling pervades the most trifling habits of life; even the women frequently attend public meetings and listen to political harangues as a recreation after their household labours. Debating clubs are to a certain extent a substitute for theatrical entertainments: an American can not converse, but he can discuss; and when he attempts to talk he falls into a dissertation.

He speaks to you as if he was addressing a meeting; and if he should chance to warm in the course of the discussion, he will infallibly say, "Gentlemen," to the person with whom he is conversing.

In some countries the inhabitants display a certain repugnance to avail themselves of the political privileges with which the law invests them; it would seem that they set too high a value upon their time to spend it on the interests of the community; and they prefer to withdraw within the exact limits of a wholesome egotism, marked out by four sunk fences and a quickset hedge. But if an American were condemned to confine his activity to his own affairs, he would be robbed of one half of his existence; he would feel an immense void in the life which he is accustomed to lead, and his wretchedness would be unbearable.[2] I am persuaded that, if ever a despotic government is established in America, it will find it more difficult to surmount the habits which free institutions have engendered than to conquer the attachment of the citizens to freedom.

This ceaseless agitation which democratic government has introduced into the political world influences all social intercourse. I am not sure that upon the whole this is not the greatest advantage of democracy. And I am much less inclined to applaud it for what it does than for what it causes to be done.

It is incontestable that the people frequently conducts public business very badly; but it is impossible that the lower orders should take a part in public business without extending the circle of their ideas, and without quitting the ordinary routine of their mental acquirements. The humblest individual who is called upon to co-operate in the government of society acquires a certain degree of self-respect; and as he possesses authority, he can command the services of minds much more enlightened than his own. He is canvassed by a multitude of applicants, who seek to deceive him in a thousand different ways, but who instruct him by their deceit. He takes a part in political

undertakings which did not originate in his own conception, but which give him a taste for undertakings of the kind. New ameliorations are daily pointed out in the property which he holds in common with others, and this gives him the desire of improving that property which is more peculiarly his own. He is perhaps neither happier nor better than those who came before him, but he is better informed and more active. I have no doubt that the democratic institutions of the United States, joined to the physical constitution of the country, are the cause (not the direct, as is so often asserted, but the indirect cause) of the prodigious commercial activity of the inhabitants. It is not engendered by the laws, but the people learns how to promote it by the experience derived from legislation.

When the opponents of democracy assert that a single individual performs the duties which he undertakes much better than the government of the community, it appears to me that they are perfectly right. The government of an individual, supposing an equality of instruction on either side, is more consistent, more persevering, and more accurate than that of a multitude, and it is much better qualified judiciously to discriminate the characters of the men it employs. If any deny what I advance, they have certainly never seen a democratic government, or have formed their opinion upon very partial evidence. It is true that even when local circumstances and the disposition of the people allow democratic institutions to subsist, they never display a regular and methodical system of government. Democratic liberty is far from accomplishing all the projects it undertakes, with the skill of an adroit despotism. It frequently abandons them before they have borne their fruits, or risks them when the consequences may prove dangerous; but in the end it produces more than any absolute government, and if it do fewer things well, it does a greater number of things. Under its sway the transactions of the public administration are not nearly so important as what is done by private

exertion. Democracy does not confer the most skilful kind of government upon the people, but it produces that which the most skilful governments are frequently unable to awaken, namely, an all-pervading and restless activity, a superabundant force, and an energy which is inseparable from it, and which may, under favourable circumstances, beget the most amazing benefits. These are the true advantages of democracy.

In the present age, when the destinies of Christendom seem to be in suspense, some hasten to assail democracy as its foe while it is yet in its early growth; and others are ready with their vows of adoration for this new deity which is springing forth from chaos: but both parties are very imperfectly acquainted with the object of their hatred or of their desires; they strike in the dark, and distribute their blows by mere chance.

We must first understand what the purport of society and the aims of government are held to be. If it be your intention to confer a certain elevation upon the human mind, and to teach it to regard the things of this world with generous feelings, to inspire men with a scorn of mere temporal advantage, to give birth to living convictions, and to keep alive the spirit of honourable devotedness; if you hold it to be a good thing to refine the habits, to embellish the manners, to cultivate the arts of a nation, and to promote the love of poetry, of beauty, and of renown; if you would constitute a people not unfitted to act with power upon all other nations, nor unprepared for those high enterprises which, whatever be the result of its efforts, will leave a name forever famous in time—if you believe such to be the principal object of society, you must avoid the government of democracy, which would be a very uncertain guide to the end you have in view.

But if you hold it to be expedient to divert the moral and intellectual activity of man to the production of comfort, and to the acquirement of the necessaries of life; if a clear understanding be more profitable to man than genius; if your object be not to stimulate the virtues of

heroism, but to create habits of peace; if you had rather witness vices than crimes and are content to meet with fewer noble deeds, provided offences be diminished in the same proportion; if, instead of living in the midst of a brilliant state of society, you are contented to have prosperity around you; if, in short, you are of opinion that the principal object of a Government is not to confer the greatest possible share of power and of glory upon the body of the nation, but to insure the greatest degree of enjoyment and the least degree of misery to each of the individuals who compose it—if such be your desires, you can have no surer means of satisfying them than by equalizing the conditions of men, and establishing democratic institutions.

But if the time be passed at which such a choice was possible, and if some superhuman power impel us toward one or the other of these two governments without consulting our wishes, let us at least endeavour to make the best of that which is allotted to us; and let us so inquire into its good and its evil propensities as to be able to foster the former and repress the latter to the utmost.

NOTES

[1] At the time of my stay in the United States the Temperance Societies already consisted of more than 270,000 members, and their effect had been to diminish the consumption of fermented liquors by 500,000 gallons per annum in the State of Pennsylvania alone.

[2] The same remark was made at Rome under the first Cæsars. Montesquieu somewhere alludes to the excessive despondency of certain Roman citizens who, after the excitement of political life, were all at once flung back into the stagnation of private life.

CHAPTER XV

UNLIMITED POWER OF THE MAJORITY IN THE UNITED STATES, AND ITS CONSEQUENCES

Natural strength of the majority in democracies—How the unlimited power of the majority increases in America the instability of legislation and administration inherent in democracy—Tyranny of the majority—Effects of the unlimited power of the majority upon the arbitrary authority of the American public officers—Power exercised by the majority in America upon opinion—Effects of the tyranny of the majority upon the national character of the Americans—The greatest dangers of the American republics proceed from the unlimited power of the majority.

THE very essence of democratic government consists in the absolute sovereignty of the majority; for there is nothing in democratic States which is capable of resisting it. Most of the American Constitutions have sought to increase this natural strength of the majority by artificial means.[1]

The legislature is, of all political institutions, the one which is most easily swayed by the wishes of the majority. The Americans determined that the members of the legislature should be elected by the people immediately, and for a very brief term, in order to subject them, not only to the general convictions, but even to the daily passions, of their constituents. The members of both Houses are taken from the same class in society, and are nominated in the same manner; so that the modifications of the legislative bodies are almost as rapid and quite as irresistible as those of a single assembly. It is to a legislature thus constituted that almost all the authority of the government has been intrusted.

But while the law increased the strength of those au-

thorities which of themselves were strong, it enfeebled more and more those which were naturally weak. It deprived the representatives of the executive of all stability and independence, and by subjecting them completely to the caprices of the legislature, it robbed them of the slender influence which the nature of a democratic government might have allowed them to retain. In several States the judicial power was also submitted to the elective discretion of the majority, and in all of them its existence was made to depend on the pleasure of the legislative authority, since the representatives were empowered annually to regulate the stipend of the judges.

Custom, however, has done even more than law. A proceeding which will in the end set all the guarantees of representative government at naught is becoming more and more general in the United States: it frequently happens that the electors, who choose a delegate, point out a certain line of conduct to him, and impose upon him a certain number of positive obligations which he is pledged to fulfil. With the exception of the tumult, this comes to the same thing as if the majority of the populace held its deliberations in the market-place.

Several other circumstances concur in rendering the power of the majority in America not only preponderant, but irresistible. The moral authority of the majority is partly based upon the notion that there is more intelligence and more wisdom in a great number of men collected together than in a single individual, and that the number of legislators is more important than their quality. The theory of equality is, in fact, applied to the intellect of man: and human pride is thus assailed in its last retreat by a doctrine which the minority hesitate to admit, and in which they very slowly concur. Like all other powers, and perhaps more than all other powers, the authority of the many requires the sanction of time; at first it enforces obedience by constraint, but its laws are not respected until they have long been maintained.

The right of governing society, which the majority

supposes itself to derive from its superior intelligence, was introduced into the United States by the first settlers, and this idea, which would be sufficient of itself to create a free nation, has now been amalgamated with the manners of the people and the minor incidents of social intercourse.

The French, under the old monarchy, held it for a maxim (which is still a fundamental principle of the English Constitution) that the King could do no wrong; and if he did do wrong, the blame was imputed to his advisers. This notion was highly favourable to habits of obedience, and it enabled the subject to complain of the law without ceasing to love and honour the lawgiver. The Americans entertain the same opinion with respect to the majority.

The moral power of the majority is founded upon yet another principle, which is, that the interests of the many are to be preferred to those of the few. It readily will be perceived that the respect here professed for the rights of the majority must naturally increase or diminish according to the state of parties. When a nation is divided into several irreconcilable factions, the privilege of the majority is often overlooked, because it is intolerable to comply with its demands.

If there existed in America a class of citizens whom the legislating majority sought to deprive of exclusive privileges which they had possessed for ages, and to bring down from an elevated station to the level of the ranks of the multitude, it is probable that the minority would be less ready to comply with its laws. But as the United States were colonized by men holding equal rank among themselves, there is as yet no natural or permanent source of dissension between the interests of its different inhabitants.

There are certain communities in which the persons who constitute the minority can never hope to draw over the majority to their side, because they must then give up the very point which is at issue between them. Thus, an aristocracy can never become a majority while it retains its exclusive privileges, and it can not cede its privileges without ceasing to be an aristocracy.

In the United States political questions can not be taken up in so general and absolute a manner, and all parties are willing to recognise the rights of the majority, because they all hope to turn those rights to their own advantage at some future time. The majority therefore in that country exercises a prodigious actual authority, and a moral influence which is scarcely less preponderant; no obstacles exist which can impede or so much as retard its progress, or which can induce it to heed the complaints of those whom it crushes upon its path. This state of things is fatal in itself and dangerous for the future.

I have already spoken of the natural defects of democratic institutions, and they all of them increase in the exact ratio of the power of the majority. To begin with the most evident: the mutability of the laws is an evil inherent in democratic government, because it is natural to democracies to raise men to power in very rapid succession. But this evil is more or less sensible in proportion to the authority and the means of action which the legislature possesses.

In America the authority exercised by the legislative bodies is supreme; nothing prevents them from accomplishing their wishes with celerity, and with irresistible power, while they are supplied by new representatives every year. That is to say, the circumstances which contribute most powerfully to democratic instability, and which admit of the free application of caprice to every object in the State, are here in full operation. In conformity with this principle, America is, at the present day, the country in the world where laws last the shortest time. Almost all the American constitutions have been amended within the course of thirty years: there is therefore not a single American State which has not modified the principles of its legislation in that lapse of time. As for the laws themselves, a single glance upon the archives of the different States of the Union suffices to convince one that in America the activity of the legislator never slackens. Not that the American democracy is naturally less stable than any

other, but that it is allowed to follow its capricious propensities in the formation of the laws.[2]

The omnipotence of the majority, and the rapid as well as absolute manner in which its decisions are executed in the United States, has not only the effect of rendering the law unstable, but it exercises the same influence upon the execution of the law and the conduct of the public administration. As the majority is the only power which it is important to court, all its projects are taken up with the greatest ardour, but no sooner is its attention distracted than all this ardour ceases; while in the free States of Europe the administration is at once independent and secure, so that the projects of the legislature are put into execution, although its immediate attention may be directed to other objects.

In America certain ameliorations are undertaken with much more zeal and activity than elsewhere; in Europe the same ends are promoted by much less social effort, more continuously applied.

Some years ago several pious individuals undertook to ameliorate the condition of the prisons. The public was excited by the statements which they put forward, and the regeneration of criminals became a very popular undertaking. New prisons were built, and for the first time the idea of reforming as well as of punishing the delinquent formed a part of prison discipline. But this happy alteration, in which the public had taken so hearty an interest, and which the exertions of the citizens had irresistibly accelerated, could not be completed in a moment. While the new penitentiaries were being erected (and it was the pleasure of the majority that they should be terminated with all possible celerity), the old prisons existed, which still contained a great number of offenders. These jails became more unwholesome and more corrupt in proportion as the new establishments were beautified and improved, forming a contrast which may readily be understood. The majority was so eagerly employed in founding the new prisons that those which already existed were

forgotten; and as the general attention was diverted to a novel object, the care which hitherto had been bestowed upon the others ceased. The salutary regulations of discipline were first relaxed, and afterward broken; so that in the immediate neighbourhood of a prison which bore witness to the mild and enlightened spirit of our time, dungeons might be met with which reminded the visitor of the barbarity of the Middle Ages.

I hold it to be an impious and an execrable maxim that, politically speaking, a people has a right to do whatsoever it pleases, and yet I have asserted that all authority originates in the will of the majority. Am I, then, in contradiction with myself?

A general law—which bears the name of Justice—has been made and sanctioned, not only by a majority of this or that people, but by a majority of mankind. The rights of every people are consequently confined within the limits of what is just. A nation may be considered in the light of a jury which is empowered to represent society at large, and to apply the great and general law of justice. Ought such a jury, which represents society, to have more power than the society in which the laws it applies originate?

When I refuse to obey an unjust law, I do not contest the right which the majority has of commanding, but I simply appeal from the sovereignty of the people to the sovereignty of mankind. It has been asserted that a people can never entirely outstep the boundaries of justice and of reason in those affairs which are more peculiarly its own, and that consequently full power may fearlessly be given to the majority by which it is represented. But this language is that of a slave.

A majority taken collectively may be regarded as a being whose opinions, and most frequently whose interests, are opposed to those of another being, which is styled a minority. If it be admitted that a man, possessing absolute power, may misuse that power by wronging his adversaries, why should a majority not be liable to the same reproach? Men are not apt to change their characters by

agglomeration; nor does their patience in the presence of obstacles increase with the consciousness of their strength.[3] And for these reasons I can never willingly invest any number of my fellow-creatures with that unlimited authority which I should refuse to any one of them.

I do not think that it is possible to combine several principles in the same government, so as at the same time to maintain freedom, and really to oppose them to one another. The form of government which is usually termed mixed has always appeared to me to be a mere chimera. Accurately speaking, there is no such thing as a mixed government (with the meaning usually given to that word), because in all communities some one principle of action may be discovered which preponderates over the others. England in the last century, which has been more especially cited as an example of this form of Government, was in point of fact an essentially aristocratic State, although it comprised very powerful elements of democracy; for the laws and customs of the country were such that the aristocracy could not but preponderate in the end, and subject the direction of public affairs to its own will. The error arose from too much attention being paid to the actual struggle which was going on between the nobles and the people, without considering the probable issue of the contest, which was in reality the important point. When a community really has a mixed government—that is to say, when it is equally divided between two adverse principles—it must either pass through a revolution or fall into complete dissolution.

I am therefore of opinion that some one social power must always be made to predominate over the others; but I think that liberty is endangered when this power is checked by no obstacles which may retard its course, and force it to moderate its own vehemence.

Unlimited power is in itself a bad and dangerous thing; human beings are not competent to exercise it with discretion, and God alone can be omnipotent, because his

wisdom and his justice are always equal to his power. But no power upon earth is so worthy of honour for itself, or of reverential obedience to the rights which it represents, that I would consent to admit its uncontrolled and all-predominant authority. When I see that the right and the means of absolute command are conferred on a people or upon a king, upon an aristocracy or a democracy, a monarchy or a republic, I recognise the germ of tyranny, and I journey onward to a land of more hopeful institutions.

In my opinion the main evil of the present democratic institutions of the United States does not arise, as is often asserted in Europe, from their weakness, but from their overpowering strength; and I am not so much alarmed at the excessive liberty which reigns in that country as at the very inadequate securities which exist against tyranny.

When an individual or a party is wronged in the United States, to whom can he apply for redress? If to public opinion, public opinion constitutes the majority; if to the legislature, it represents the majority, and implicitly obeys its injunctions; if to the executive power, it is appointed by the majority, and remains a passive tool in its hands; the public troops consist of the majority under arms; the jury is the majority invested with the right of hearing judicial cases; and in certain States even the judges are elected by the majority. However iniquitous or absurd the evil of which you complain may be, you must submit to it as well as you can.[4]

If, on the other hand, a legislative power could be so constituted as to represent the majority without necessarily being the slave of its passions; an executive, so as to retain a certain degree of uncontrolled authority; and a judiciary, so as to remain independent of the two other powers; a government would be formed which would still be democratic without incurring any risk of tyrannical abuse.

I do not say that tyrannical abuses frequently occur in America at the present day, but I maintain that no sure

barrier is established against them, and that the causes which mitigate the government are to be found in the circumstances and the manners of the country more than in its laws.

A distinction must be drawn between tyranny and arbitrary power. Tyranny may be exercised by means of the law, and in that case it is not arbitrary; arbitrary power may be exercised for the good of the community at large, in which case it is not tyrannical. Tyranny usually employs arbitrary means, but, if necessary, it can rule without them.

In the United States the unbounded power of the majority, which is favourable to the legal despotism of the legislature, is likewise favourable to the arbitrary authority of the magistrate. The majority has an entire control over the law when it is made and when it is executed; and as it possesses an equal authority over those who are in power and the community at large, it considers public officers as its passive agents, and readily confides the task of serving its designs to their vigilance. The details of their office and the privileges which they are to enjoy are rarely defined beforehand; but the majority treats them as a master does his servants when they are always at work in his sight, and he has the power of directing or reprimanding them at every instant.

In general the American functionaries are far more independent than the French civil officers within the sphere which is prescribed to them. Sometimes, even, they are allowed by the popular authority to exceed those bounds; and as they are protected by the opinion, and backed by the co-operation, of the majority, they venture upon such manifestations of their power as astonish a European. By this means habits are formed in the heart of a free country which may some day prove fatal to its liberties.

It is in the examination of the display of public opinion in the United States that we clearly perceive how far the power of the majority surpasses all the powers with which we are acquainted in Europe. Intellectual princi-

ples exercise an influence which is so invisible, and often so inappreciable, that they baffle the toils of oppression. At the present time the most absolute monarchs in Europe are unable to prevent certain notions, which are opposed to their authority, from circulating in secret throughout their dominions, and even in their courts. Such is not the case in America; as long as the majority is still undecided, discussion is carried on; but as soon as its decision is irrevocably pronounced, a submissive silence is observed, and the friends, as well as the opponents, of the measure unite in assenting to its propriety. The reason of this is perfectly clear: no monarch is so absolute as to combine all the powers of society in his own hands, and to conquer all opposition with the energy of a majority which is invested with the right of making and of executing the laws.

The authority of a king is purely physical, and it controls the actions of the subject without subduing his private will; but the majority possesses a power which is physical and moral at the same time; it acts upon the will as well as upon the actions of men, and it represses not only all contest, but all controversy.

I know no country in which there is so little true independence of mind and freedom of discussion as in America. In any constitutional state in Europe every sort of religious and political theory may be advocated and propagated abroad; for there is no country in Europe so subdued by any single authority as not to contain citizens who are ready to protect the man who raises his voice in the cause of truth from the consequences of his hardihood. If he is unfortunate enough to live under an absolute government, the people is upon his side; if he inhabits a free country, he may find a shelter behind the authority of the throne, if he require one. The aristocratic part of society supports him in some countries, and the democracy in others. But in a nation where democratic institutions exist, organized like those of the United States, there is but one sole authority, one single element of strength and of success, with nothing beyond it.

In America, the majority raises very formidable barriers to the liberty of opinion: within these barriers an author may write whatever he pleases, but he will repent it if he ever step beyond them. Not that he is exposed to the terrors of an auto-da-fé, but he is tormented by the slights and persecutions of daily obloquy. His political career is closed forever, since he has offended the only authority which is able to promote his success. Every sort of compensation, even that of celebrity, is refused to him. Before he published his opinions he imagined that he held them in common with many others; but no sooner has he declared them openly than he is loudly censured by his overbearing opponents, while those who think like him, without having the courage to speak, abandon him in silence. He yields at length, oppressed by the daily efforts he has been making, and he subsides into silence, as if he was tormented by remorse for having spoken the truth.

Fetters and headsmen were the coarse instruments which tyranny formerly employed; but the civilization of our age has refined the arts of despotism, which seemed, however, to have been sufficiently perfected before. The excesses of monarchical power had devised a variety of physical means of oppression: the democratic republics of the present day have rendered it as entirely an affair of the mind as that will which it is intended to coerce. Under the absolute sway of an individual despot the body was attacked in order to subdue the soul, and the soul escaped the blows which were directed against it and rose superior to the attempt; but such is not the course adopted by tyranny in democratic republics; there the body is left free, and the soul is enslaved. The sovereign can no longer say, "You shall think as I do on pain of death"; but he says: "You are free to think differently from me, and to retain your life, your property, and all that you possess; but if such be your determination, you are henceforth an alien among your people. You may retain your civil rights, but they will be useless to you, for you will never be chosen by your fellow-citizens if you solicit their suf-

frages, and they will affect to scorn you if you solicit their esteem. You will remain among men, but you will be deprived of the rights of mankind. Your fellow-creatures will shun you like an impure being, and those who are most persuaded of your innocence will abandon you too, lest they should be shunned in their turn. Go in peace! I have given you your life, but it is an existence incomparably worse than death."

Monarchical institutions have thrown an odium upon despotism; let us beware lest democratic republics should restore oppression, and should render it less odious and less degrading in the eyes of the many, by making it still more onerous to the few.

Works have been published in the proudest nations of the Old World expressly intended to censure the vices and deride the follies of the times: Labruyère inhabited the palace of Louis XIV when he composed his chapter upon the Great, and Molière criticised the courtiers in the very pieces which were acted before the Court. But the ruling power in the United States is not to be made game of; the smallest reproach irritates its sensibility, and the slightest joke which has any foundation in truth renders it indignant; from the style of its language to the more solid virtues of its character, everything must be made the subject of encomium. No writer, whatever be his eminence, can escape from this tribute of adulation to his fellow-citizens. The majority lives in the perpetual practice of self-applause, and there are certain truths which the Americans can learn only from strangers or from experience.

If great writers have not at present existed in America, the reason is very simply given in these facts; there can be no literary genius without freedom of opinion, and freedom of opinion does not exist in America. The Inquisition never has been able to prevent a vast number of anti-religious books from circulating in Spain. The empire of the majority succeeds much better in the United States, since it actually removes the wish of publishing

them. Unbelievers are to be met with in America, but, to say the truth, there is no public organ of infidelity. Attempts have been made by some governments to protect the morality of nations by prohibiting licentious books. In the United States no one is punished for this sort of works, but no one is induced to write them; not because all the citizens are immaculate in their manners, but because the majority of the community is decent and orderly.

In these cases the advantages derived from the exercise of this power are unquestionable, and I am simply discussing the nature of the power itself. This irresistible authority is a constant fact, and its judicious exercise is an accidental occurrence.

The tendencies to which I have just alluded are as yet very slightly perceptible in political society, but they already begin to exercise an unfavourable influence upon the national character of the Americans. I am inclined to attribute the singular paucity of distinguished political characters to the ever-increasing activity of the despotism of the majority in the United States. When the American Revolution broke out they arose in great numbers, for public opinion then served, not to tyrannize over, but to direct the exertions of individuals. Those celebrated men took a full part in the general agitation of mind common at that period, and they attained a high degree of personal fame, which was reflected back upon the nation, but which was by no means borrowed from it.

In absolute governments the great nobles who are nearest to the throne flatter the passions of the sovereign, and voluntarily truckle to his caprices. But the mass of the nation does not degrade itself by servitude: it often submits from weakness, from habit, or from ignorance, and sometimes from loyalty. Some nations have been known to sacrifice their own desires to those of the sovereign with pleasure and with pride, thus exhibiting a sort of independence in the very act of submission. These peoples are miserable, but they are not degraded. There is

a great difference between doing what one does not approve and feigning to approve what one does; the one is the necessary case of a weak person, the other befits the temper of a lackey.

In free countries, where every one is more or less called upon to give his opinion in the affairs of state; in democratic republics, where public life is incessantly commingled with domestic affairs, where the sovereign authority is accessible on every side, and where its attention can almost always be attracted by vociferation, more persons are to be met with who speculate upon its foibles and live at the cost of its passions than in absolute monarchies. Not because men are naturally worse in these States than elsewhere, but the temptation is stronger, and of easier access at the same time. The result is a far more extensive debasement of the characters of citizens.

Democratic republics extend the practice of currying favour with the many, and they introduce it into a greater number of classes at once: this is one of the most serious reproaches that can be addressed to them. In democratic States organized on the principles of the American republics, this is more especially the case, where the authority of the majority is so absolute and so irresistible that a man must give up his rights as a citizen, and almost abjure his quality as a human being, if he intends to stray from the track which it lays down.

In that immense crowd which throngs the avenues to power in the United States I found very few men who displayed any of that manly candour and that masculine independence of opinion which frequently distinguished the Americans in former times, and which constitutes the leading feature in distinguished characters, wheresoever they may be found. It seems, at first sight, as if all the minds of the Americans were formed upon one model, so accurately do they correspond in their manner of judging. A stranger does, indeed, sometimes meet with Americans who dissent from these rigorous formularies; with men who deplore the defects of the laws, the mutability and

the ignorance of democracy; who even go so far as to observe the evil tendencies which impair the national character, and to point out such remedies as it might be possible to apply; but no one is there to hear these things besides yourself, and you, to whom these secret reflections are confided, are a stranger and a bird of passage. They are very ready to communicate truths which are useless to you, but they continue to hold a different language in public.

If ever these lines are read in America, I am well assured of two things: in the first place, that all who peruse them will raise their voices to condemn me; and in the second place, that very many of them will acquit me at the bottom of their conscience.

I have heard of patriotism in the United States, and it is a virtue which may be found among the people, but never among the leaders of the people. This may be explained by analogy; despotism debases the oppressed much more than the oppressor: in absolute monarchies the king has often great virtues, but the courtiers are invariably servile. It is true that the American courtiers do not say "Sire," or "Your Majesty"—a distinction without a difference. They are forever talking of the natural intelligence of the populace they serve; they do not debate the question as to which of the virtues of their master is pre-eminently worthy of admiration, for they assure him that he possesses all the virtues under heaven without having acquired them, or without caring to acquire them; they do not give him their daughters and their wives to be raised at his pleasure to the rank of his concubines, but, by sacrificing their opinions, they prostitute themselves. Moralists and philosophers in America are not obliged to conceal their opinions under the veil of allegory; but, before they venture upon a harsh truth, they say: "We are aware that the people which we are addressing is too superior to all the weaknesses of human nature to lose the command of its temper for an instant; and we should not hold this language if we were not speak-

ing to men whom their virtues and their intelligence render more worthy of freedom than all the rest of the world." It would have been impossible for the sycophants of Louis XIV to flatter more dexterously. For my part, I am persuaded that in all governments, whatever their nature may be, servility will cower to force, and adulation will cling to power. The only means of preventing men from degrading themselves is to invest no one with that unlimited authority which is the surest method of debasing them.

Governments usually fall a sacrifice to impotence or to tyranny. In the former case their power escapes from them; it is wrested from their grasp in the latter. Many observers, who have witnessed the anarchy of democratic States, have imagined that the government of those States was naturally weak and impotent. The truth is, that when once hostilities are begun between parties, the government loses its control over society. But I do not think that a democratic power is naturally without force or without resources: say, rather, that it is almost always by the abuse of its force and the misemployment of its resources that a democratic government fails. Anarchy is almost always produced by its tyranny or its mistakes, but not by its want of strength.

It is important not to confound stability with force, or the greatness of a thing with its duration. In democratic republics, the power which directs [5] society is not stable; for it often changes hands and assumes a new direction. But whichever way it turns, its force is almost irresistible. The governments of the American republics appear to me to be as much centralized as those of the absolute monarchies of Europe, and more energetic than they are. I do not, therefore, imagine that they will perish from weakness.[6]

If ever the free institutions of America are destroyed, that event may be attributed to the unlimited authority of the majority, which may at some future time urge the minorities to desperation, and oblige them to have re-

course to physical force. Anarchy will then be the result, but it will have been brought about by despotism.

Mr. Hamilton expresses the same opinion in "The Federalist," No. 51: "It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Justice is the end of government. It is the end of civil society. It ever has been, and ever will be, pursued until it be obtained, or until liberty be lost in the pursuit. In a society, under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of Nature, where the weaker individual is not secured against the violence of the stronger: and as in the latter state even the stronger individuals are prompted by the uncertainty of their condition to submit to a government which may protect the weak as well as themselves, so in the former state will the more powerful factions be gradually induced by a like motive to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted that, if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of right under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of the factious majorities, that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it."

Jefferson has also thus expressed himself in a letter to Madison:[7] "The executive power in our Government is not the only, perhaps not even the principal, object of my solicitude. The tyranny of the legislature is really the danger most to be feared, and will continue to be so for many years to come. The tyranny of the executive power will come in its turn, but at a more distant period." I am glad to cite the opinion of Jefferson upon this subject rather than that of another, because I consider him to be the most powerful advocate democracy has ever sent forth.

Notes

[1] We observed, in examining the Federal Constitution, that the efforts of the legislators of the Union had been diametrically opposed to the present tendency. The consequence has been that the Federal Government is more independent in its sphere than that of the States. But the Federal Government scarcely ever interferes in any but external affairs; and the governments of the States are in reality the authorities which direct society in America.

[2] The legislative acts promulgated by the State of Massachusetts alone, from the year 1780 to the present time, already fill three stout volumes; and it must not be forgotten that the collection to which I allude was published in 1823, when many old laws which had fallen into disuse were omitted. The State of Massachusetts, which is not more populous than a department of France, may be considered as the most stable, the most consistent, and the most sagacious in its undertakings of any in the Union.

[3] No one will assert that a people can not forcibly wrong another people; but parties may be looked upon as lesser nations within a greater one, and they are aliens to each other; if, therefore, it be admitted that a nation can act tyrannically toward another nation, it can not be denied that a party may do the same toward another party.

[4] A striking instance of the excesses which may be occasioned by the despotism of the majority occurred at Baltimore in the year 1812. At that time the war was very popular in Baltimore. A journal which had taken the other side of the question excited the indignation of the inhabitants by its opposition. The populace assembled, broke the printing-presses, and attacked the houses of the newspaper editors. The militia was called out, but no one obeyed the call; and the only means of saving the poor wretches who were threatened by the frenzy of the mob was to throw them into prison as common malefactors. But even this precaution was ineffectual; the mob collected again during the night, the magistrates again made a vain attempt to call out the militia, the prison was forced, one of the newspaper editors was killed upon the spot, and the others were left for dead; the guilty parties were acquitted by the jury when they were brought to trial.

I said one day to an inhabitant of Pennsylvania, "Be so good as to explain to me how it happens that in a State founded by Quakers, and celebrated for its toleration, freed blacks are not allowed to exercise civil rights. They pay the taxes; is it not fair that they should have a vote?"

"You insult us," replied my informant, "if you imagine that our legislators could have committed so gross an act of injustice and intolerance."

"What! then the blacks possess the right of voting in this country?"

"Without the smallest doubt."

"How comes it, then, that at the polling-booth this morning I did not perceive a single negro in the whole meeting?"

"This is not the fault of the law: the negroes have an undisputed right of voting, but they voluntarily abstain from making their appearance."

"A very pretty piece of modesty on their parts!" rejoined I.

"Why, the truth is that they are not disinclined to vote, but they are afraid of being maltreated: in this country the law is sometimes unable to maintain its authority without the support of the majority. But in this case the majority entertains very strong prejudices against the blacks, and the magistrates are unable to protect them in the exercise of their legal privileges."

"What! then the majority claims the right not only of making the laws, but of breaking the laws it has made?"

[5] This power may be centred in an assembly, in which case it will be strong without being stable; or it may be centred in an individual, in which case it will be less strong, but more stable.

[6] I presume that it is scarcely necessary to remind the reader here, as well as throughout the remainder of this chapter, that I am speaking, not of the Federal Government, but of the several governments of each State, which the majority controls at its pleasure.

[7] March 15, 1789.

CHAPTER XVI

CAUSES WHICH MITIGATE THE TYRANNY OF THE MAJORITY IN THE UNITED STATES

Absence of central administration—The profession of the law in the United States serves to counterpoise the democracy—Trial by jury in the United States considered as a political institution.

I HAVE already pointed out the distinction which is to be made between a centralized government and a centralized administration. The former exists in America, but the latter is nearly unknown there. If the directing power of the American communities had both these instruments of government at its disposal, and united the habit of executing its own commands to the right of commanding; if, after having established the general principles of government, it descended to the details of public business; and if, having regulated the great interests of the country, it could penetrate into the privacy of individual interests, freedom would soon be banished from the New World.

But in the United States the majority, which so frequently displays the tastes and the propensities of a despot, is still destitute of the more perfect instruments of tyranny. In the American republics the activity of the central Government never as yet has been extended beyond a limited number of objects sufficiently prominent to call forth its attention. The secondary affairs of society never have been regulated by its authority, and nothing hitherto has betrayed its desire of interfering in them. The majority is become more and more absolute, but it has not increased the prerogatives of the central government; those great

prerogatives have been confined to a certain sphere; and although the despotism of the majority may be galling upon one point, it can not be said to extend to all. However the predominant party in the nation may be carried away by its passions, however ardent it may be in the pursuit of its projects, it can not oblige all the citizens to comply with its desires in the same manner and at the same time throughout the country. When the central Government which represents that majority has issued a decree, it must intrust the execution of its will to agents, over whom it frequently has no control, and whom it can not perpetually direct. The townships, municipal bodies, and counties may therefore be looked upon as concealed breakwaters, which check or part the tide of popular excitement. If an oppressive law were passed, the liberties of the people would still be protected by the means by which that law would be put in execution: the majority can not descend to the details and (as I will venture to style them) the puerilities of administrative tyranny. Nor does the people entertain that full consciousness of its authority which would prompt it to interfere in these matters; it knows the extent of its natural powers, but it is unacquainted with the increased resources which the art of government might furnish.

This point deserves attention, for if a democratic republic similar to that of the United States were ever founded in a country where the power of a single individual had previously subsisted, and the effects of a centralized administration had sunk deep into the habits and the laws of the people, I do not hesitate to assert that in that country a more insufferable despotism would prevail than any which now exists in the monarchical States of Europe, or indeed than any which could be found on this side of the confines of Asia.

In visiting the Americans and in studying their laws we perceive that the authority they have intrusted to members of the legal profession, and the influence which these individuals exercise in the Government, is the most power-

ful existing security against the excesses of democracy. This effect seems to me to result from a general cause which it is useful to investigate, since it may produce analogous consequences elsewhere.

The members of the legal profession have taken an important part in all the vicissitudes of political society in Europe during the last five hundred years. At one time they have been the instruments of those who were invested with political authority, and at another they have succeeded in converting political authorities into their instrument. In the Middle Ages they afforded a powerful support to the Crown, and since that period they have exerted themselves to the utmost to limit the royal prerogative. In England they have contracted a close alliance with the aristocracy; in France they have proved to be the most dangerous enemies of that class. It is my object to inquire whether, under all these circumstances, the members of the legal profession have been swayed by sudden and momentary impulses; or whether they have been impelled by principles which are inherent in their pursuits, and which will always recur in history. I am incited to this investigation by reflecting that this particular class of men will play most likely a prominent part in that order of things to which the events of our time are giving birth.

Men who have more especially devoted themselves to legal pursuits derive from those occupations certain habits of order, a taste for formalities, and a kind of instinctive regard for the regular connection of ideas, which naturally render them very hostile to the revolutionary spirit and the unreflecting passions of the multitude.

The special information which lawyers derive from their studies insures them a separate station in society, and they constitute a sort of privileged body in the scale of intelligence. This notion of their superiority perpetually recurs to them in the practice of their profession: they are the masters of a science which is necessary, but which is not very generally known; they serve as arbiters between

the citizens; and the habit of directing the blind passions of parties in litigation to their purpose inspires them with a certain contempt for the judgment of the multitude. To this it may be added that they naturally constitute a body, not by any previous understanding, or by an agreement which directs them to a common end; but the analogy of their studies and the uniformity of their proceedings connect their minds together, as much as a common interest could combine their endeavours.

A portion of the tastes and of the habits of the aristocracy may consequently be discovered in the characters of men in the profession of the law. They participate in the same instinctive love of order and of formalities; and they entertain the same repugnance to the actions of the multitude, and the same secret contempt of the government of the people. I do not mean to say that the natural propensities of lawyers are sufficiently strong to sway them irresistibly; for they, like most other men, are governed by their private interests and the advantages of the moment.

In a state of society in which the members of the legal profession are prevented from holding that rank in the political world which they enjoy in private life, we may rest assured that they will be the foremost agents of revolution. But it must then be inquired whether the cause which induces them to innovate and to destroy is accidental, or whether it belongs to some lasting purpose which they entertain. It is true that lawyers mainly contributed to the overthrow of the French Monarchy in 1789; but it remains to be seen whether they acted thus because they had studied the laws, or because they were prohibited from co-operating in the work of legislation.

Five hundred years ago the English nobles headed the people, and spoke in its name; at the present time the aristocracy supports the throne, and defends the royal prerogative. But aristocracy has, notwithstanding this, its peculiar instincts and propensities. We must be careful not to confound isolated members of a body with the body

itself. In all free governments, of whatsoever form they may be, members of the legal profession will be found at the head of all parties. The same remark is also applicable to the aristocracy; for almost all the democratic convulsions which have agitated the world have been directed by nobles.

A privileged body can never satisfy the ambition of all its members; it has always more talents and more passions to content and to employ than it can find places; so that a considerable number of individuals are usually to be met with who are inclined to attack those very privileges which they find it impossible to turn to their own account.

I do not, then, assert that all the members of the legal profession are at all times the friends of order and the opponents of innovation, but merely that most of them usually are so. In a community in which lawyers are allowed to occupy, without opposition, that high station which naturally belongs to them, their general spirit will be eminently conservative and anti-democratic. When an aristocracy excludes the leaders of that profession from its ranks, it excites enemies which are the more formidable to its security as they are independent of the nobility by their industrious pursuits; and they feel themselves to be its equal in point of intelligence, although they enjoy less opulence and less power. But whenever an aristocracy consents to impart some of its privileges to these same individuals, the two classes coalesce very readily, and assume, as it were, the consistency of a single order of family interests.

I am, in like manner, inclined to believe that a monarch will always be able to convert legal practitioners into the most serviceable instruments of his authority. There is a far greater affinity between this class of individuals and the executive power than there is between them and the people; just as there is a greater natural affinity between the nobles and the monarch than between the nobles and the people, although the higher orders of society have

occasionally resisted the prerogative of the Crown in concert with the lower classes.

Lawyers are attached to public order beyond every other consideration, and the best security of public order is authority. It must not be forgotten that, if they prize the free institutions of their country much, they nevertheless value the legality of those institutions far more: they are less afraid of tyranny than of arbitrary power; and provided that the legislature take upon itself to deprive men of their independence, they are not dissatisfied.

I am therefore convinced that the prince who, in presence of an encroaching democracy, should endeavour to impair the judicial authority in his dominions, and to diminish the political influence of lawyers, would commit a great mistake. He would let slip the substance of authority to grasp at the shadow. He would act more wisely in introducing men connected with the law into the government; and if he intrusted them with the conduct of a despotic power, bearing some marks of violence, that power would most likely assume the external features of justice and of legality in their hands.

The government of democracy is favourable to the political power of lawyers; for when the wealthy, the noble, and the prince are excluded from the government, they are sure to occupy the highest stations, in their own right, as it were, since they are the only men of information and sagacity, beyond the sphere of the people, who can be the objects of the popular choice. If, then, they are led by their tastes to combine with the aristocracy and to support the Crown, they are naturally brought into contact with the people by their interests. They like the government of democracy, without participating in its propensities and without imitating its weaknesses; whence they derive a twofold authority, from it and over it. The people in democratic States does not mistrust the members of the legal profession, because it is well known that they are interested in serving the popular cause; and it listens to them without irritation, because it does not attribute

to them any sinister designs. The object of lawyers is not, indeed, to overthrow the institutions of democracy, but they constantly endeavour to give it an impulse which diverts it from its real tendency, by means which are foreign to its nature. Lawyers belong to the people by birth and interest, to the aristocracy by habit and by taste, and they may be looked upon as the natural bond and connecting link of the two great classes of society.

The profession of the law is the only aristocratic element which can be amalgamated without violence with the natural elements of democracy, and which can be advantageously and permanently combined with them. I am not unacquainted with the defects which are inherent in the character of that body of men; but without this admixture of lawyer-like sobriety with the democratic principle, I question whether democratic institutions could long be maintained, and I can not believe that a republic could subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people.

This aristocratic character, which I hold to be common to the legal profession, is much more distinctly marked in the United States and in England than in any other country. This proceeds not only from the legal studies of the English and American lawyers, but from the nature of the legislation, and the position which those persons occupy in the two countries. The English and the Americans have retained the law of precedents; that is to say, they continue to found their legal opinions and the decisions of their courts upon the opinions and the decisions of their forefathers. In the mind of an English or American lawyer a taste and a reverence for what is old is almost always united to a love of regular and lawful proceedings.

This predisposition has another effect upon the character of the legal profession and upon the general course of society. The English and American lawyers investigate what has been done; the French advocate inquires

what should have been done; the former produce precedents, the latter reasons. A French observer is surprised to hear how often an English or an American lawyer quotes the opinions of others, and how little he alludes to his own; while the reverse occurs in France. There the most trifling litigation is never conducted without the introduction of an entire system of ideas peculiar to the counsel employed; and the fundamental principles of law are discussed in order to obtain a perch of land by the decision of the court. This abnegation of his own opinion, and this implicit deference to the opinion of his forefathers, which are common to the English and American lawyer, this subjection of thought which he is obliged to profess, necessarily give him more timid habits and more sluggish inclinations in England and America than in France.

The French Codes are often difficult of comprehension, but they can be read by every one; nothing, on the other hand, can be more impenetrable to the uninitiated than a legislation founded upon precedents. The indispensable want of legal assistance which is felt in England and in the United States, and the high opinion which is generally entertained of the ability of the legal profession, tend to separate it more and more from the people, and to place it in a distinct class. The French lawyer is simply a man extensively acquainted with the statutes of his country; but the English or American lawyer resembles the hierophants of Egypt, for, like them, he is the sole interpreter of an occult science.

The station which lawyers occupy in England and America exercises no less an influence upon their habits and their opinions. The English aristocracy, which has taken care to attract to its sphere whatever is at all analogous to itself, has conferred a high degree of importance and of authority upon the members of the legal profession. In English society lawyers do not occupy the first rank, but they are contented with the station assigned to them; they constitute, as it were, the younger branch of the Eng-

lish aristocracy, and they are attached to their elder brothers, although they do not enjoy all their privileges. The English lawyers consequently mingle the taste and the ideas of the aristocratic circles in which they move with the aristocratic interests of their profession.

And indeed the lawyer-like character which I am endeavouring to depict is most distinctly to be met with in England: there laws are esteemed not so much because they are good as because they are old; and if it be necessary to modify them in any respect, or to adapt them to the changes which time produces in society, recourse is had to the most inconceivable contrivances in order to uphold the traditionary fabric, and to maintain that nothing has been done which does not square with the intentions and complete the labours of former generations. The very individuals who conduct these changes disclaim all intention of innovation, and they had rather resort to absurd expedients than plead guilty to so great a crime. This spirit appertains more especially to the English lawyers; they seem indifferent to the real meaning of what they treat, and they direct all their attention to the letter, seeming inclined to infringe the rules of common sense and of humanity rather than to swerve one tittle from the law. The English legislation may be compared to the stock of an old tree, upon which lawyers have ingrafted the most various shoots, with the hope that, although their fruits may differ, their foliage at least will be confounded with the venerable trunk which supports them all.

In America there are no nobles or men of letters, and the people is apt to mistrust the wealthy; lawyers consequently form the highest political class, and the most cultivated circle of society. They have, therefore, nothing to gain by innovation, which adds a conservative interest to their natural taste for public order. If I were asked where I place the American aristocracy, I should reply without hesitation that it is not composed of the rich, who are united together by no common tie, but that it occupies the judicial bench and the bar.

The more we reflect upon all that occurs in the United States the more shall we be persuaded that the lawyers as a body form the most powerful, if not the only, counterpoise to the democratic element. In that country we perceive how eminently the legal profession is qualified by its powers, and even by its defects, to neutralize the vices which are inherent in popular government. When the American people is intoxicated by passion, or carried away by the impetuosity of its ideas, it is checked and stopped by the almost invisible influence of its legal counsellors, who secretly oppose their aristocratic propensities to its democratic instincts, their superstitious attachment to what is antique to its love of novelty, their narrow views to its immense designs, and their habitual procrastination to its ardent impatience.

The courts of justice are the most visible organs by which the legal profession is enabled to control the democracy. The judge is a lawyer, who, independently of the taste for regularity and order which he has contracted in the study of legislation, derives an additional love of stability from his own inalienable functions. His legal attainments have already raised him to a distinguished rank among his fellow-citizens; his political power completes the distinction of his station, and gives him the inclinations natural to privileged classes.

Armed with the power of declaring the laws to be unconstitutional,[1] the American magistrate perpetually interferes in political affairs. He can not force the people to make laws, but at least he can oblige it not to disobey its own enactments, or to act inconsistently with its own principles. I am aware that a secret tendency to diminish the judicial power exists in the United States, and by most of the constitutions of the several States the Government can, upon the demand of the two houses of the legislature, remove the judges from their station. By some other constitutions the members of the tribunals are elected, and they are even subjected to frequent re-elections. I venture to predict that these innovations will sooner or

later be attended with fatal consequences, and that it will be found out at some future period that the attack which is made upon the judicial power has affected the democratic republic itself.

It must not, however, be supposed that the legal spirit of which I have been speaking has been confined, in the United States, to the courts of justice; it extends far beyond them. As the lawyers constitute the only enlightened class which the people does not mistrust, they are naturally called upon to occupy most of the public stations. They fill the legislative assemblies, and they conduct the administration; they consequently exercise a powerful influence upon the formation of the law, and upon its execution. The lawyers are, however, obliged to yield to the current of public opinion, which is too strong for them to resist it, but it is easy to find indications of what their conduct would be if they were free to act as they chose. The Americans, who have made such copious innovations in their political legislation, have introduced very sparing alterations in their civil laws, and that with great difficulty, although those laws are frequently repugnant to their social condition. The reason of this is, that in matters of civil law the majority is obliged to defer to the authority of the legal profession, and that the American lawyers are disinclined to innovate when they are left to their own choice.

It is curious for a Frenchman, accustomed to a very different state of things, to hear the perpetual complaints which are made in the United States against the stationary propensities of legal men, and their prejudices in favour of existing institutions.

The influence of the legal habits which are common in America extends beyond the limits I have just pointed out. Scarcely any question arises in the United States which does not become, sooner or later, a subject of judicial debate; hence all parties are obliged to borrow the ideas, and even the language, usual in judicial proceedings in their daily controversies. As most public men are, or

have been, legal practitioners, they introduce the customs and technicalities of their profession into the affairs of the country. The jury extends this habitude to all classes. The language of the law thus becomes, in some measure, a vulgar tongue; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates beyond their walls into the bosom of society, where it descends to the lowest classes, so that the whole people contracts the habits and the tastes of the magistrate. The lawyers of the United States form a party which is but little feared and scarcely perceived, which has no badge peculiar to itself, which adapts itself with great flexibility to the exigencies of the time, and accommodates itself to all the movements of the social body; but this party extends over the whole community, and it penetrates into all classes of society; it acts upon the country imperceptibly, but it finally fashions it to suit its purposes.

Since I have been led by my subject to recur to the administration of justice in the United States, I will not pass over this point without adverting to the institution of the jury. Trial by jury may be considered in two separate points of view, as a judicial and as a political institution. If it entered into my present purpose to inquire how far trial by jury (more especially in civil cases) contributes to insure the best administration of justice, I admit that its utility might be contested. As the jury was first introduced at a time when society was in an uncivilized state, and when courts of justice were merely called upon to decide on the evidence of facts, it is not an easy task to adapt it to the wants of a highly civilized community when the mutual relations of men are multiplied to a surprising extent, and have assumed the enlightened and intellectual character of the age.[2]

My present object is to consider the jury as a political institution, and any other course would divert me from my subject. Of trial by jury, considered as a judicial institution, I shall here say but very few words. When the English adopted trial by jury they were a semi-barbarous

people; they are become, in course of time, one of the most enlightened nations of the earth; and their attachment to this institution seems to have increased with their increasing cultivation. They soon spread beyond their insular boundaries to every corner of the habitable globe; some have formed colonies, others independent states; the mother-country has maintained its monarchical constitution; many of its offspring have founded powerful republics; but wherever the English have been they have boasted of the privilege of trial by jury.[3] They have established it, or hastened to re-establish it, in all their settlements. A judicial institution which obtains the suffrages of a great people for so long a series of ages, which is zealously renewed at every epoch of civilization, in all the climates of the earth and under every form of human government, can not be contrary to the spirit of justice.[4]

I turn, however, from this part of the subject. To look upon the jury as a mere judicial institution is to confine our attention to a very narrow view of it; for however great its influence may be upon the decisions of the law courts, that influence is very subordinate to the powerful effects which it produces on the destinies of the community at large. The jury is above all a political institution, and it must be regarded in this light in order to be duly appreciated.

By the jury I mean a certain number of citizens chosen indiscriminately, and invested with a temporary right of judging. Trial by jury, as applied to the repression of crime, appears to me to introduce an eminently republican element into the Government upon the following grounds:

The institution of the jury may be aristocratic or democratic, according to the class of society from which the jurors are selected; but it always preserves its republican character, inasmuch as it places the real direction of society in the hands of the governed, or of a portion of the governed, instead of leaving it under the authority of the Government. Force is never more than a transient element of success; and after force comes the notion of right.

A government which should only be able to crush its enemies upon a field of battle would very soon be destroyed. The true sanction of political laws is to be found in penal legislation, and if that sanction be wanting the law will sooner or later lose its cogency. He who punishes infractions of the law is therefore the real master of society. Now the institution of the jury raises the people itself, or at least a class of citizens, to the bench of judicial authority. The institution of the jury consequently invests the people, or that class of citizens, with the direction of society.[5]

In England the jury is returned from the aristocratic portion of the nation; the aristocracy makes the laws, applies the laws, and punishes all infractions of the laws; everything is established upon a consistent footing, and England may with truth be said to constitute an aristocratic republic. In the United States the same system is applied to the whole people. Every American citizen is qualified to be an elector, a juror, and is eligible to office.[6] The system of the jury, as it is understood in America, appears to me to be as direct and as extreme a consequence of the sovereignty of the people as universal suffrage. These institutions are two instruments of equal power, which contribute to the supremacy of the majority. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury. The monarchs of the House of Tudor sent to prison jurors who refused to convict, and Napoleon caused them to be returned by his agents.

However clear most of these truths may seem to be, they do not command universal assent, and in France, at least, the institution of trial by jury is still very imperfectly understood. If the question arises as to the proper qualification of jurors, it is confined to a discussion of the intelligence and knowledge of the citizens who may be returned, as if the jury was merely a judicial institution. This appears to me to be the least part of the subject. The jury

is pre-eminently a political institution; it must be regarded as one form of the sovereignty of the people; when that sovereignty is repudiated, it must be rejected, or it must be adapted to the laws by which that sovereignty is established. The jury is that portion of the nation to which the execution of the laws is intrusted, as the Houses of Parliament constitute that part of the nation which makes the laws; and in order that society may be governed with consistency and uniformity, the list of citizens qualified to serve on juries must increase and diminish with the list of electors. This I hold to be the point of view most worthy of the attention of the legislator, and all that remains is merely accessory.

I am so entirely convinced that the jury is pre-eminently a political institution that I still consider it in this light when it is applied in civil causes. Laws are always unstable unless they are founded upon the manners of a nation; manners are the only durable and resisting power in a people. When the jury is reserved for criminal offences, the people only witnesses its occasional action in certain particular cases; the ordinary course of life goes on without its interference, and it is considered as an instrument, but not as the only instrument, of obtaining justice. This is true a fortiori when the jury is applied only to certain criminal causes.

When, on the contrary, the influence of the jury is extended to civil causes, its application is constantly palpable; it affects all the interests of the community; every one co-operates in its work: it thus penetrates into all the usages of life, it fashions the human mind to its peculiar forms, and is gradually associated with the idea of justice itself.

The institution of the jury, if confined to criminal causes, is always in danger, but when once it is introduced into civil proceedings it defies the aggressions of time and of man. If it had been as easy to remove the jury from the manners as from the laws of England, it would have perished under Henry VIII and Elizabeth, and the civil

jury did in reality, at that period, save the liberties of the country. In whatever manner the jury be applied, it can not fail to exercise a powerful influence upon the national character; but this influence is prodigiously increased when it is introduced into civil causes. The jury, and more especially the jury in civil cases, serves to communicate the spirit of the judges to the minds of all the citizens; and this spirit, with the habits which attend it, is the soundest preparation for free institutions. It imbues all classes with a respect for the thing judged, and with the notion of right. If these two elements be removed, the love of independence is reduced to a mere destructive passion. It teaches men to practise equity, every man learns to judge his neighbour as he would himself be judged; and this is especially true of the jury in civil causes, for, while the number of persons who have reason to apprehend a criminal prosecution is small, every one is liable to have a civil action brought against him. The jury teaches every man not to recoil before the responsibility of his own actions, and impresses him with that manly confidence without which political virtue can not exist. It invests each citizen with a kind of magistracy, it makes them all feel the duties which they are bound to discharge toward society, and the part which they take in the Government. By obliging men to turn their attention to affairs which are not exclusively their own, it rubs off that individual egotism which is the rust of society.

The jury contributes most powerfully to form the judgment and to increase the natural intelligence of a people, and this is, in my opinion, its greatest advantage. It may be regarded as a gratuitous public school ever open, in which every juror learns to exercise his rights, enters into daily communication with the most learned and enlightened members of the upper classes, and becomes practically acquainted with the laws of his country, which are brought within the reach of his capacity by the efforts of the bar, the advice of the judge, and even by the passions of the parties. I think that the practical intelligence and

political good sense of the Americans are mainly attributable to the long use which they have made of the jury in civil causes. I do not know whether the jury is useful to those who are in litigation; but I am certain it is highly beneficial to those who decide the litigation; and I look upon it as one of the most efficacious means for the education of the people which society can employ.

What I have hitherto said applies to all nations, but the remark I am now about to make is peculiar to the Americans and to democratic peoples. I have already observed that in democracies the members of the legal profession and the magistrates constitute the only aristocratic body which can check the irregularities of the people. This aristocracy is invested with no physical power, but it exercises its conservative influence upon the minds of men, and the most abundant source of its authority is the institution of the civil jury. In criminal causes, when society is armed against a single individual, the jury is apt to look upon the judge as the passive instrument of social power, and to mistrust his advice. Moreover, criminal causes are entirely founded upon the evidence of facts which common sense can readily appreciate; upon this ground the judge and the jury are equal. Such, however, is not the case in civil causes; then the judge appears as a disinterested arbiter between the conflicting passions of the parties. The jurors look up to him with confidence and listen to him with respect, for in this instance their intelligence is completely under the control of his learning. It is the judge who sums up the various arguments with which their memory has been wearied out, and who guides them through the devious course of the proceedings; he points their attention to the exact question of fact which they are called upon to solve, and he puts the answer to the question of law into their mouths. His influence upon their verdict is almost unlimited.

If I am called upon to explain why I am but little moved by the arguments derived from the ignorance of jurors in civil causes, I reply, that in these proceedings,

whenever the question to be solved is not a mere question of fact, the jury has only the semblance of a judicial body. The jury sanctions the decision of the judge, they by the authority of society which they represent, and he by that of reason and of law.[7]

In England and in America the judges exercise an influence upon criminal trials which the French judges have never possessed. The reason of this difference easily may be discovered: the English and American magistrates establish their authority in civil causes, and only transfer it afterward to tribunals of another kind, where that authority was not acquired. In some cases (and they are frequently the most important ones) the American judges have the right of deciding causes alone.[8] Upon these occasions they are accidentally placed in the position which the French judges habitually occupy, but they are invested with far more power than the latter; they are still surrounded by the reminiscence of the jury, and their judgment has almost as much authority as the voice of the community at large, represented by that institution. Their influence extends beyond the limits of the courts; in the recreations of private life as well as in the turmoil of public business, abroad and in the legislative assemblies, the American judge is constantly surrounded by men who are accustomed to regard his intelligence as superior to their own, and after having exercised his power in the decision of causes, he continues to influence the habits of thought and the characters of the individuals who took a part in his judgment.

The jury, then, which seems to restrict the rights of magistracy, does in reality consolidate its power, and in no country are the judges so powerful as there, where the people partakes their privileges. It is more especially by means of the jury in civil causes that the American magistrates imbue all classes of society with the spirit of their profession. Thus the jury, which is the most energetic means of making the people rule, is also the most efficacious means of teaching it to rule well.

Notes

[1] See Chapter VI, on the "Judicial Power in the United States."

[2] The investigation of trial by jury as a judicial institution, and the appreciation of its effects in the United States, together with the advantages the Americans have derived from it, would suffice to form a book, and a book upon a very useful and curious subject. The State of Louisiana would in particular afford the curious phenomenon of a French and English legislation, as well as a French and English population, which are gradually combining with each other.

[3] All the English and American jurists are unanimous upon this head. Mr. Story, judge of the Supreme Court of the United States, speaks, in his "Treatise on the Federal Constitution," of the advantages of trial by jury in civil cases: "The inestimable privilege of a trial by jury in civil cases—a privilege scarcely inferior to that in criminal cases, which is counted by all persons to be essential to political and civil liberty. . . ."

[4] If it were our province to point out the utility of the jury as a judicial institution in this place, much might be said, and the following arguments might be brought forward among others:

By introducing the jury into the business of the courts you are enabled to diminish the number of judges, which is a very great advantage. When judges are very numerous, death is perpetually thinning the ranks of the judicial functionaries, and laying places vacant for new-comers. The ambition of the magistrates is therefore continually excited, and they are naturally made dependent upon the will of the majority, or the individual who fills up the vacant appointments; the officers of the court then rise like the officers of an army. This state of things is entirely contrary to the sound administration of justice, and to the intentions of the legislator. The office of a judge is made inalienable in order that he may remain independent; but of what advantage is it that his independence should be protected if he be tempted to sacrifice it of his own accord? When judges are very numerous, many of them must necessarily be incapable of performing their important duties, for a great magistrate is a man of no common powers; and I am inclined to believe that a half-enlightened tribunal is the worst of all instruments for attaining those objects which it is the purpose of courts of justice to accomplish. For my own part, I would rather submit the decision of a case to ignorant jurors directed by a skilful judge than to judges a majority of whom are imperfectly acquainted with jurisprudence and with the laws.

[5] An important remark must, however, be made. Trial by jury does unquestionably invest the people with a general control over the actions of citizens, but it does not furnish means of exercising this control in all cases, or with an absolute authority. When an absolute monarch has the right of trying offences by his representatives, the fate of the prisoner is, as it were, decided beforehand. But even if the people were predisposed to convict, the composition and the non-responsibility of the jury would still afford some chances favourable to the protection of innocence.

[6] See Appendix, Q.

[7] See Appendix, R.

[8] The Federal judges decide upon their own authority almost all the questions most important to the country.

CHAPTER XVII

PRINCIPAL CAUSES WHICH TEND TO MAINTAIN THE DEMOCRATIC REPUBLIC IN THE UNITED STATES

Accidental or providential causes which contribute to the maintenance of the democratic republic in the United States—Influence of the laws upon the maintenance of the democratic republic in the United States—Influence of manners upon the maintenance of the democratic republic in the United States—Religion considered as a political institution, which powerfully contributes to the maintenance of the democratic republic among the Americans—Indirect influence of religious opinions upon political society in the United States—Principal causes which render religion powerful in America—How the instruction, the habits, and the practical experience of the Americans promote the success of their democratic institutions—The laws contribute more to the maintenance of the democratic republic in the United States than the physical circumstances of the country, and the manners more than the laws—Whether laws and manners are sufficient to maintain democratic institutions in other countries besides America—Importance of what precedes with respect to the state of Europe.

A DEMOCRATIC republic subsists in the United States, and the principal object of this book has been to account for the fact of its existence. Several of the causes which contribute to maintain the institutions of America have been involuntarily passed by or only hinted at as I was borne along by my subject. Others I have been unable to discuss, and those on which I have dwelt most are, as it were, buried in the details of the former parts of this work. I think, therefore, that before I proceed to speak of the future, I can not do better than collect within a small compass the reasons which best explain the present. In this retrospective chapter I shall be succinct, for I shall take care to remind the reader very summarily of what he already knows; and I shall only

select the most prominent of those facts which I have not yet pointed out.

All the causes which contribute to the maintenance of the democratic republic in the United States are reducible to three heads:

I. The peculiar and accidental situation in which Providence has placed the Americans.

II. The laws.

III. The manners and customs of the people.

A thousand circumstances, independent of the will of man, concur to facilitate the maintenance of a democratic republic in the United States. Some of these peculiarities are known, the others may easily be pointed out; but I shall confine myself to the most prominent among them.

The Americans have no neighbours, and consequently they have no great wars, or financial crises, or inroads, or conquest to dread; they require neither great taxes, nor great armies, nor great generals; and they have nothing to fear from a scourge which is more formidable to republics than all these evils combined, namely, military glory. It is impossible to deny the inconceivable influence which military glory exercises upon the spirit of a nation. General Jackson, whom the Americans have twice elected to be the head of their Government, is a man of a violent temper and mediocre talents; no one circumstance in the whole course of his career ever proved that he is qualified to govern a free people, and indeed the majority of the enlightened classes of the Union has always been opposed to him. But he was raised to the presidency, and has been maintained in that lofty station, solely by the recollection of a victory which he gained twenty years ago under the walls of New Orleans, a victory which was, however, a very ordinary achievement, and which could only be remembered in a country where battles are rare. Now the people which is thus carried away by the illusions of glory is unquestionably the most cold and calculating, the most unmilitary (if I may use the expression), and the most prosaic of all the peoples of the earth.

America has no great capital[1] city, whose influence is directly or indirectly felt over the whole extent of the country, which I hold to be one of the first causes of the maintenance of republican institutions in the United States. In cities men can not be prevented from concerting together, and from awakening a mutual excitement which prompts sudden and passionate resolutions. Cities may be looked upon as large assemblies, of which all the inhabitants are members; their populace exercises a prodigious influence upon the magistrates, and frequently executes its own wishes without their intervention.

To subject the provinces to the metropolis is therefore not only to place the destiny of the empire in the hands of a portion of the community, which may be reprobated as unjust, but to place it in the hands of a populace acting under its own impulses, which must be avoided as dangerous. The preponderance of capital cities is therefore a serious blow upon the representative system, and it exposes modern republics to the same defect as the republics of antiquity, which all perished from not having been acquainted with that form of government.

It would be easy for me to adduce a great number of secondary causes which have contributed to establish, and which concur to maintain, the democratic republic of the United States. But I discern two principal circumstances among these favourable elements, which I hasten to point out. I have already observed that the origin of the American settlements may be looked upon as the first and most efficacious cause to which the present prosperity of the United States may be attributed. The Americans had the chances of birth in their favour, and their forefathers imported that equality of conditions into the country whence the democratic republic has very naturally taken its rise. Nor was this all they did; for besides this republican condition of society, the early settlers bequeathed to their descendants those customs, manners, and opinions which contribute most to the success of a republican form of government. When I reflect upon the consequences of

this primary circumstance, methinks I see the destiny of America embodied in the first Puritan who landed on those shores, just as the human race was represented by the first man.

The chief circumstance which has favoured the establishment and the maintenance of a democratic republic in the United States is the nature of the territory which the Americans inhabit. Their ancestors gave them the love of equality and of freedom, but God himself gave them the means of remaining equal and free, by placing them upon a boundless continent, which is open to their exertions. General prosperity is favourable to the stability of all governments, but more particularly of a democratic constitution, which depends upon the dispositions of the majority, and more particularly of that portion of the community which is most exposed to feel the pressure of want. When the people rules, it must be rendered happy, or it will overturn the State, and misery is apt to stimulate it to those excesses to which ambition rouses kings. The physical causes, independent of the laws, which contribute to promote general prosperity, are more numerous in America than they have ever been in any other country in the world, at any other period of history. In the United States not only is legislation democratic, but Nature herself favours the cause of the people.

In what part of human tradition can be found anything at all similar to that which is occurring under our eyes in North America? The celebrated communities of antiquity were all founded in the midst of hostile nations, which they were obliged to subjugate before they could flourish in their place. Even the moderns have found, in some parts of South America, vast regions inhabited by a people of inferior civilization, but which occupied and cultivated the soil. To found their new States it was necessary to extirpate or to subdue a numerous population, until civilization has been made to blush for their success. But North America was only inhabited by wandering tribes, who took no thought of the natural riches of the soil, and

that vast country was still, properly speaking, an empty continent, a desert land awaiting its inhabitants.

Everything is extraordinary in America, the social condition of the inhabitants, as well as the laws; but the soil upon which these institutions are founded is more extraordinary than all the rest. When man was first placed upon the earth by the Creator, the earth was inexhaustible in its youth, but man was weak and ignorant; and when he had learned to explore the treasures which it contained, hosts of his fellow-creatures covered its surface, and he was obliged to earn an asylum for repose and for freedom by the sword. At that same period North America was discovered, as if it had been kept in reserve by the Deity, and had just risen from beneath the waters of the deluge.

That continent still presents, as it did in the primeval time, rivers which rise from never-failing sources, green and moist solitudes, and fields which the ploughshare of the husbandman has never turned. In this state it is offered to man, not in the barbarous and isolated condition of the early ages, but to a being who is already in possession of the most potent secrets of the natural world, who is united to his fellow-men, and instructed by the experience of fifty centuries. At this very time thirteen millions of civilized Europeans are peaceably spreading over those fertile plains, with whose resources and whose extent they are not yet themselves accurately acquainted. Three or four thousand soldiers drive the wandering races of the aborigines before them; these are followed by the pioneers, who pierce the woods, scare off the beasts of prey, explore the courses of the inland streams, and make ready the triumphal procession of civilization across the waste.

The favourable influence of the temporal prosperity of America upon the institutions of that country has been so often described by others, and adverted to by myself, that I shall not enlarge upon it beyond the addition of a few facts. An erroneous notion is generally entertained that the deserts of America are peopled by European emigrants, who annually disembark upon the coasts of the

New World, while the American population increases and multiplies upon the soil which its forefathers tilled. The European settler, however, usually arrives in the United States without friends, and sometimes without resources; in order to subsist he is obliged to work for hire, and he rarely proceeds beyond that belt of industrious population which adjoins the ocean. The desert can not be explored without capital or credit; and the body must be accustomed to the rigours of a new climate before it can be exposed to the chances of forest life. It is the Americans themselves who daily quit the spots which gave them birth to acquire extensive domains in a remote country. Thus the European leaves his cottage for the transatlantic shores; and the American, who is born on that very coast, plunges in his turn into the wilds of central America. This double emigration is incessant; it begins in the remotest parts of Europe, it crosses the Atlantic Ocean, and it advances over the solitudes of the New World. Millions of men are marching at once toward the same horizon; their language, their religion, their manners differ, their object is the same. The gifts of fortune are promised in the West, and to the West they bend their course.

No event can be compared with this continuous removal of the human race, except perhaps those irruptions which preceded the fall of the Roman Empire. Then, as well as now, generations of men were impelled forward in the same direction to meet and struggle on the same spot; but the designs of Providence were not the same; then, every new-comer was the harbinger of destruction and of death; now, every adventurer brings with him the elements of prosperity and of life. The future still conceals from us the ulterior consequences of this emigration of the Americans toward the West; but we can readily apprehend its more immediate results. As a portion of the inhabitants annually leave the States in which they were born, the population of these States increases very slowly, although they have long been established: thus in Connecticut, which contains only fifty-nine inhabitants to the

square mile, the population has not been increased by more than one quarter in forty years, while that of England has been augmented by one third in the lapse of the same period. The European emigrant always lands, therefore, in a country which is but half full, and where hands are in request: he becomes a workman in easy circumstances; his son goes to seek his fortune in unpeopled regions, and he becomes a rich land-owner. The former amasses the capital which the latter invests, and the stranger as well as the native is unacquainted with want.

The laws of the United States are extremely favourable to the division of property; but a cause which is more powerful than the laws prevents property from being divided to excess.[2] This is very perceptible in the States which are beginning to be thickly peopled; Massachusetts is the most populous part of the Union, but it contains only eighty inhabitants to the square mile, which is much less than in France, where one hundred and sixty-two are reckoned to the same extent of country. But in Massachusetts estates are very rarely divided; the eldest son takes the land, and the others go to seek their fortune in the desert. The law has abolished the rights of primogeniture, but circumstances have concurred to re-establish it under a form of which none can complain, and by which no just rights are impaired.

A single fact will suffice to show the prodigious number of individuals who leave New England, in this manner, to settle themselves in the wilds. We were assured in 1830 that thirty-six of the members of Congress were born in the little State of Connecticut. The population of Connecticut, which constitutes only one forty-third part of that of the United States, thus furnished one eighth of the whole body of representatives. The State of Connecticut, however, only sends five delegates to Congress; and the thirty-one others sit for the new Western States. If these thirty-one individuals had remained in Connecticut, it is probable that instead of becoming rich land-owners they would have remained humble labourers, that they

would have lived in obscurity without being able to rise into public life, and that, far from becoming useful members of the legislature, they might have been unruly citizens.

These reflections do not escape the observation of the Americans any more than of ourselves. "It can not be doubted," says Chancellor Kent in his "Treatise on American Law," "that the division of landed estates must produce great evils when it is carried to such excess as that each parcel of land is insufficient to support a family; but these disadvantages never have been felt in the United States, and many generations must elapse before they can be felt. The extent of our inhabited territory, the abundance of adjacent land, and the continual stream of emigration flowing from the shores of the Atlantic toward the interior of the country, suffice as yet, and will long suffice, to prevent the parcelling out of estates."

It is difficult to describe the rapacity with which the American rushes forward to secure the immense booty which fortune proffers to him. In the pursuit he fearlessly braves the arrow of the Indian and the distempers of the forest; he is unimpressed by the silence of the woods; the approach of beasts of prey does not disturb him; for he is goaded onward by a passion more intense than the love of life. Before him lies a boundless continent, and he urges onward as if time pressed, and he was afraid of finding no room for his exertions. I have spoken of the emigration from the older States, but how shall I describe that which takes place from the more recent ones? Fifty years have scarcely elapsed since that of Ohio was founded; the greater part of its inhabitants were not born within its confines; its capital has only been built thirty years, and its territory is still covered by an immense extent of uncultivated fields; nevertheless, the population of Ohio is already proceeding westward, and most of the settlers who descend to the fertile savannas of Illinois are citizens of Ohio. These men left their first country to improve their condition; they quit their resting-place to ameliorate it

still more; fortune awaits them everywhere, but happiness they can not attain. The desire of prosperity is become an ardent and restless passion in their minds which grows by what it gains. They early broke the ties which bound them to their natal earth, and they have contracted no fresh ones on their way. Emigration was at first necessary to them as a means of subsistence; and it soon becomes a sort of game of chance, which they pursue for the emotions it excites as much as for the gain it procures.

Sometimes the progress of man is so rapid that the desert reappears behind him. The woods stoop to give him a passage, and spring up again when he has passed. It is not uncommon in crossing the new States of the West to meet with deserted dwellings in the midst of the wilds; the traveller frequently discovers the vestiges of a log-house in the most solitary retreats, which bear witness to the power, and no less to the inconstancy, of man. In these abandoned fields, and over these ruins of a day, the primeval forest soon scatters a fresh vegetation, the beasts resume the haunts which were once their own, and Nature covers the traces of man's path with branches and with flowers, which obliterate his evanescent track.

I remember that, in crossing one of the woodland districts which still cover the State of New York, I reached the shores of a lake embosomed in forests coeval with the world. A small island, covered with woods whose thick foliage concealed its banks, rose from the centre of the waters. Upon the shores of the lake no object attested the presence of man, except a column of smoke which might be seen on the horizon rising from the tops of the trees to the clouds, and seeming to hang from heaven rather than to be mounting to the sky. An Indian shallop was hauled up on the sand, which tempted me to visit the islet that had first attracted my attention, and in a few minutes I set foot upon its banks. The whole island formed one of those delicious solitudes of the New World which almost lead civilized man to regret the haunts of

the savage. A luxuriant vegetation bore witness to the incomparable fruitfulness of the soil. The deep silence which is common to the wilds of North America was only broken by the hoarse cooing of the wood-pigeon, and the tapping of the woodpecker upon the bark of trees. I was far from supposing that this spot had ever been inhabited, so completely did Nature seem to be left to her own caprices; but when I reached the centre of the isle I thought that I discovered some traces of man. I then proceeded to examine the surrounding objects with care, and I soon perceived that a European had undoubtedly been led to seek a refuge in this retreat. Yet what changes had taken place in the scene of his labours! The logs which he had hastily hewn to build himself a shed had sprouted afresh; the very props were intertwined with living verdure, and his cabin was transformed into a bower. In the midst of these shrubs a few stones were to be seen, blackened with fire and sprinkled with thin ashes; the hearth no doubt had been here, and the chimney in falling had covered it with rubbish. I stood for some time in silent admiration of the exuberance of Nature and the littleness of man: and when I was obliged to leave that enchanting solitude, I exclaimed with melancholy, "Are ruins, then, already here?"

In Europe we are wont to look upon a restless disposition, an unbounded desire of riches, and an excessive love of independence, as propensities very formidable to society. Yet these are the very elements which insure a long and peaceful duration to the republics of America. Without these unquiet passions the population would collect in certain spots, and would soon be subject to wants like those of the Old World, which it is difficult to satisfy; for such is the present good fortune of the New World, that the vices of its inhabitants are scarcely less favourable to society than their virtues. These circumstances exercise a great influence on the estimation in which human actions are held in the two hemispheres. The Americans frequently term what we should call cupidity a laudable in-

AN AMERICAN LAKE.

Photogravure from a photograph.

dustry; and they blame as faint-heartedness what we consider to be the virtue of moderate desires.

In France, simple tastes, orderly manners, domestic affections, and the attachment which men feel to the place of their birth, are looked upon as great guarantees of the tranquility and happiness of the State. But in America nothing seems to be more prejudicial to society than these virtues. The French Canadians, who have faithfully preserved the traditions of their pristine manners, are already embarrassed for room upon their small territory; and this little community, which has so recently begun to exist, will shortly be a prey to the calamities incident to old nations. In Canada, the most enlightened, patriotic, and humane inhabitants make extraordinary efforts to render the people dissatisfied with those simple enjoyments which still content it. There, the seductions of wealth are vaunted with as much zeal as the charms of an honest but limited income in the Old World, and more exertions are made to excite the passions of the citizens there than to calm them elsewhere. If we listen to their eulogies, we shall hear that nothing is more praiseworthy than to exchange the pure and homely pleasures which even the poor man tastes in his own country for the dull delights of prosperity under a foreign sky; to leave the patrimonial hearth and the turf beneath which his forefathers sleep; in short, to abandon the living and the dead in quest of fortune.

At the present time America presents a field for human effort far more extensive than any sum of labour which can be applied to work it. In America too much knowledge can not be diffused; for all knowledge, while it may serve him who possesses it, turns also to the advantage of those who are without it. New wants are not to be feared, since they can be satisfied without difficulty; the growth of human passions need not be dreaded, since all passions may find an easy and a legitimate object; nor can men be put in possession of too much freedom, since they are scarcely ever tempted to misuse their liberties.

The American republics of the present day are like

companies of adventurers formed to explore in common the waste lands of the New World, and busied in a flourishing trade. The passions which agitate the Americans most deeply are not their political but their commercial passions; or, to speak more correctly, they introduce the habits they contract in business into their political life. They love order, without which affairs do not prosper; and they set an especial value upon a regular conduct, which is the foundation of a solid business; they prefer the good sense which amasses large fortunes to that enterprising spirit which frequently dissipates them; general ideas alarm their minds, which are accustomed to positive calculations, and they hold practice in more honour than theory.

It is in America that one learns to understand the influence which physical prosperity exercises over political actions, and even over opinions which ought to acknowledge no sway but that of reason; and it is more especially among strangers that this truth is perceptible. Most of the European emigrants to the New World carry with them that wild love of independence and of change which our calamities are so apt to engender. I sometimes met with Europeans in the United States who had been obliged to leave their own country on account of their political opinions. They all astonished me by the language they held, but one of them surprised me more than all the rest. As I was crossing one of the most remote districts of Pennsylvania I was benighted, and obliged to beg for hospitality at the gate of a wealthy planter, who was a Frenchman by birth. He bade me sit down beside his fire, and we began to talk with that freedom which befits persons who meet in the backwoods, two thousand leagues from their native country. I was aware that my host had been a great leveller and an ardent demagogue forty years ago, and that his name was not unknown to fame. I was therefore not a little surprised to hear him discuss the rights of property as an economist or a land-owner might have done: he spoke of the necessary gradations which

fortune establishes among men, of obedience to established laws, of the influence of good morals in commonwealths, and of the support which religious opinions give to order and to freedom; he even went so far as to quote an evangelical authority in corroboration of one of his political tenets.

I listened, and marvelled at the feebleness of human reason. A proposition is true or false, but no art can prove it to be one or the other, in the midst of the uncertainties of science and the conflicting lessons of experience, until a new incident disperses the clouds of doubt; I was poor, I become rich, and I am not to expect that prosperity will act upon my conduct, and leave my judgment free; my opinions change with my fortune, and the happy circumstances which I turn to my advantage furnish me with that decisive argument which before was wanting.

The influence of prosperity acts still more freely upon the American than upon strangers. The American has always seen the connection of public order and public prosperity, intimately united as they are, go on before his eyes; he does not conceive that one can subsist without the other; he has therefore nothing to forget; nor has he, like so many Europeans, to unlearn the lessons of his early education.

The principal aim of this book has been to make known the laws of the United States; if this purpose has been accomplished, the reader is already enabled to judge for himself which are the laws that really tend to maintain the democratic republic, and which endanger its existence. If I have not succeeded in explaining this in the whole course of my work, I can not hope to do so within the limits of a single chapter. It is not my intention to retrace the path I have already pursued, and a very few lines will suffice to recapitulate what I have previously explained.

Three circumstances seem to me to contribute most powerfully to the maintenance of the democratic republic in the United States.

The first is that Federal form of Government which the

Americans have adopted, and which enables the Union to combine the power of a great empire with the security of a small State.

The second consists in those municipal institutions which limit the despotism of the majority, and at the same time impart a taste for freedom and a knowledge of the art of being free to the people.

The third is to be met with in the constitution of the judicial power. I have shown in what manner the courts of justice serve to repress the excesses of democracy, and how they check and direct the impulses of the majority without stopping its activity.

I have previously remarked that the manners of the people may be considered as one of the general causes to which the maintenance of a democratic republic in the United States is attributable. I here used the word manners with the meaning which the ancients attached to the word mores; for I apply it not only to manners in their proper sense of what constitutes the character of social intercourse, but I extend it to the various notions and opinions current among men, and to the mass of those ideas which constitute their character of mind. I comprise, therefore, under this term the whole moral and intellectual condition of a people. My intention is not to draw a picture of American manners, but simply to point out such features of them as are favourable to the maintenance of political institutions.

Every religion is to be found in juxtaposition to a political opinion which is connected with it by affinity. If the human mind be left to follow its own bent, it will regulate the temporal and spiritual institutions of society upon one uniform principle; and man will endeavour, if I may use the expression, to harmonize the state in which he lives upon earth with the state which he believes to await him in heaven. The greatest part of British America was peopled by men who, after having shaken off the authority of the Pope, acknowledged no other religious supremacy; they brought with them into the New World

a form of Christianity which I can not better describe than by styling it a democratic and republican religion. This sect contributed powerfully to the establishment of a democracy and a republic, and from the earliest settlement of the emigrants politics and religion contracted an alliance which never has been dissolved.

About fifty years ago Ireland began to pour a Catholic population into the United States; on the other hand, the Catholics of America made proselytes, and at the present moment more than a million of Christians professing the truths of the Church of Rome are to met with in the Union. The Catholics are faithful to the observances of their religion; they are fervent and zealous in the support and belief of their doctrines. Nevertheless, they constitute the most republican and the most democratic class of citizens which exists in the United States; and although this fact may surprise the observer at first, the causes by which it is occasioned may easily be discovered upon reflection.

I think that the Catholic religion has erroneously been looked upon as the natural enemy of democracy. Among the various sects of Christians, Catholicism seems to me, on the contrary, to be one of those which are most favourable to the equality of conditions. In the Catholic Church, the religious community is composed of only two elements, the priest and the people. The priest alone rises above the rank of his flock, and all below him are equal.

On doctrinal points the Catholic faith places all human capacities upon the same level; it subjects the wise and ignorant, the man of genius and the vulgar crowd, to the details of the same creed; it imposes the same observances upon the rich and needy, it inflicts the same austerities upon the strong and the weak, it listens to no compromise with mortal man, but, reducing all the human race to the same standard, it confounds all the distinctions of society at the foot of the same altar, even as they are confounded in the sight of God. If Catholicism predisposes the faithful to obedience, it certainly does not prepare them for inequality; but the contrary may be said of Protestantism,

which generally tends to make men independent, more than to render them equal.

Catholicism is like an absolute monarchy; if the sovereign be removed, all the other classes of society are more equal than they are in republics. It has not infrequently occurred that the Catholic priest has left the service of the altar to mix with the governing powers of society, and to take his place among the civil gradations of men. This religious influence has sometimes been used to secure the interests of that political state of things to which he belonged. At other times Catholics have taken the side of aristocracy from a spirit of religion.

But no sooner is the priesthood entirely separated from the Government, as is the case in the United States, than it is found that no class of men are more naturally disposed than the Catholics to transfuse the doctrine of the equality of conditions into the political world. If, then, the Catholic citizens of the United States are not forcibly led by the nature of their tenets to adopt democratic and republican principles, at least they are not necessarily opposed to them; and their social position, as well as their limited number, obliges them to adopt these opinions. Most of the Catholics are poor, and they have no chance of taking a part in the Government unless it be open to all the citizens. They constitute a minority, and all rights must be respected in order to insure to them the free exercise of their own privileges. These two causes induce them, unconsciously, to adopt political doctrines which they would perhaps support with less zeal if they were rich and preponderant.

The Catholic clergy of the United States has never attempted to oppose this political tendency, but it seeks rather to justify its results. The priests in America have divided the intellectual world into two parts: in the one they place the doctrines of revealed religion, which command their assent; in the other they leave those truths which they believe to have been freely left open to the researches of political inquiry. Thus the Catholics of the

United States are at the same time the most faithful believers and the most zealous citizens.

It may be asserted that in the United States no religious doctrine displays the slightest hostility to democratic and republican institutions. The clergy of all the different sects hold the same language, their opinions are consonant to the laws, and the human intellect flows onward in one sole current.

I happened to be staying in one of the largest towns in the Union, when I was invited to attend a public meeting which had been called for the purpose of assisting the Poles, and of sending them supplies of arms and money. I found two or three thousand persons collected in a vast hall which had been prepared to receive them. In a short time a priest in his ecclesiastical robes advanced to the front of the hustings: the spectators rose, and stood uncovered, while he spoke in the following terms:

"Almighty God! the God of Armies! Thou who didst strengthen the hearts and guide the arms of our fathers when they were fighting for the sacred rights of national independence; Thou who didst make them to triumph over a hateful oppression, and hast granted to our people the benefits of liberty and peace: turn, O Lord, a favourable eye upon the other hemisphere; pitifully look down upon that heroic nation which is even now struggling as we did in the former time, and for the same rights which we defended with our blood. Thou, who didst create Man in the likeness of the same image, let not tyranny mar Thy work, and establish inequality upon the earth. Almighty God! do Thou watch over the destiny of the Poles, and render them worthy to be free. May Thy wisdom direct their councils, and may Thy strength sustain their arms! Shed forth Thy terror over their enemies, scatter the powers which take counsel against them; and vouchsafe that the injustice which the world has witnessed for fifty years, be not consummated in our time. O Lord, who holdest alike the hearts of nations and of men in Thy powerful hand; raise up allies to the sacred cause of right;

arouse the French nation from the apathy in which its rulers retain it, that it go forth again to fight for the liberties of the world.

"Lord, turn not Thou Thy face from us, and grant that we may always be the most religious as well as the freest people of the earth. Almighty God, hear our supplications this day. Save the Poles, we beseech Thee, in the name of Thy well-beloved Son, our Lord Jesus Christ, who died upon the cross for the salvation of men. Amen."

The whole meeting responded "Amen!" with devotion.

I have just shown what the direct influence of religion upon politics is in the United States, but its indirect influence appears to me to be still more considerable, and it never instructs the Americans more fully in the art of being free than when it says nothing of freedom.

The sects which exist in the United States are innumerable. They all differ in respect to the worship which is due from man to his Creator, but they all agree in respect to the duties which are due from man to man. Each sect adores the Deity in its own peculiar manner, but all the sects preach the same moral law in the name of God. If it be of the highest importance to man, as an individual, that his religion should be true, the case of society is not the same. Society has no future life to hope for or to fear; and provided the citizens profess a religion, the peculiar tenets of that religion are of very little importance to its interests. Moreover, almost all the sects of the United States are comprised within the great unity of Christianity, and Christian morality is everywhere the same.

It may be believed without unfairness that a certain number of Americans pursue a peculiar form of worship, from habit more than from conviction. In the United States the sovereign authority is religious, and consequently hypocrisy must be common; but there is no country in the whole world in which the Christian religion retains a greater influence over the souls of men than in America; and there can be no greater proof of its utility,

and of its conformity to human nature, than that its influence is most powerfully felt over the most enlightened and free nation of the earth.

I have remarked that the members of the American clergy in general, without even excepting those who do not admit religious liberty, are all in favour of civil freedom; but they do not support any particular political system. They keep aloof from parties and from public affairs. In the United States religion exercises but little influence upon the laws and upon the details of public opinion, but it directs the manners of the community, and by regulating domestic life it regulates the State.

I do not question that the great austerity of manners which is observable in the United States arises, in the first instance, from religious faith. Religion is often unable to restrain man from the numberless temptations of fortune; nor can it check that passion for gain which every incident of his life contributes to arouse, but its influence over the mind of woman is supreme, and women are the protectors of morals. There is certainly no country in the world where the tie of marriage is so much respected as in America, or where conjugal happiness is more highly or worthily appreciated. In Europe almost all the disturbances of society arise from the irregularities of domestic life. To despise the natural bonds and legitimate pleasures of home, is to contract a taste for excesses, a restlessness of heart, and the evil of fluctuating desires. Agitated by the tumultuous passions which frequently disturb his dwelling, the European is galled by the obedience which the legislative powers of the State exact. But when the American retires from the turmoil of public life to the bosom of his family, he finds in it the image of order and of peace. There his pleasures are simple and natural, his joys are innocent and calm; and as he finds that an orderly life is the surest path to happiness, he accustoms himself without difficulty to moderate his opinions as well as his tastes. While the European endeavours to forget his domestic troubles by agitating society, the American derives

from his own home that love of order which he afterward carries with him into public affairs.

In the United States the influence of religion is not confined to the manners, but it extends to the intelligence of the people. Among the Anglo-Americans, there are some who profess the doctrines of Christianity from a sincere belief in them, and others who do the same because they are afraid to be suspected of unbelief. Christianity, therefore, reigns without any obstacle, by universal consent; the consequence is, as I have before observed, that every principle of the moral world is fixed and determinate, although the political world is abandoned to the debates and the experiments of men. Thus the human mind is never left to wander across a boundless field; and, whatever may be its pretensions, it is checked from time to time by barriers which it can not surmount. Before it can perpetrate innovation, certain primal and immutable principles are laid down, and the boldest conceptions of human device are subjected to certain forms which retard and stop their completion.

The imagination of the Americans, even in its greatest flights, is circumspect and undecided; its impulses are checked, and its works unfinished. These habits of restraint recur in political society, and are singularly favourable both to the tranquility of the people and to the durability of the institutions it has established. Nature and circumstances concurred to make the inhabitants of the United States bold men, as is sufficiently attested by the enterprising spirit with which they seek for fortune. If the mind of the Americans were free from all trammels, they would very shortly become the most daring innovators and the most implacable disputants in the world. But the revolutionists of America are obliged to profess an ostensible respect for Christian morality and equity, which does not easily permit them to violate the laws that oppose their designs; nor would they find it easy to surmount the scruples of their partisans, even if they were able to get over their own. Hitherto no one in the United

States has dared to advance the maxim that everything is permissible with a view to the interests of society; an impious adage which seems to have been invented in an age of freedom to shelter all the tyrants of future ages. Thus while the law permits the Americans to do what they please, religion prevents them from conceiving, and forbids them to commit, what is rash or unjust.

Religion in America takes no direct part in the government of society, but nevertheless it must be regarded as the foremost of the political institutions of that country; for if it does not impart a taste for freedom, it facilitates the use of free institutions. Indeed, it is in this same point of view that the inhabitants of the United States themselves look upon religious belief. I do not know whether all the Americans have a sincere faith in their religion, for who can search the human heart? but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This opinion is not peculiar to a class of citizens or to a party, but it belongs to the whole nation, and to every rank of society.

In the United States, if a political character attacks a sect, this may not prevent even the partisans of that very sect from supporting him; but if he attacks all the sects together, every one abandons him, and he remains alone.

While I was in America, a witness, who happened to be called at the assizes of the county of Westchester (State of New York), declared that he did not believe in the existence of God, or in the immortality of the soul. The judge refused to admit his evidence, on the ground that the witness had destroyed beforehand all the confidence of the court in what he was about to say.[3] The newspapers related the fact without any further comment.

The Americans combine the notions of Christianity and of liberty so intimately in their minds that it is impossible to make them conceive the one without the other; and with them this conviction does not spring from that barren traditionary faith which seems to vegetate in the soul rather than to live.

I have known of societies formed by the Americans to send out ministers of the Gospel into the new Western States to found schools and churches there, lest religion should be suffered to die away in those remote settlements, and the rising States be less fitted to enjoy free institutions than the people from which they emanated. I met with wealthy New Englanders who abandoned the country in which they were born in order to lay the foundations of Christianity and of freedom on the banks of the Missouri, or in the prairies of Illinois. Thus religious zeal is perpetually stimulated in the United States by the duties of patriotism. These men do not act from an exclusive consideration of the promises of a future life; eternity is only one motive of their devotion to the cause; and if you converse with these missionaries of Christian civilization, you will be surprised to find how much value they set upon the goods of this world, and that you meet with a politician where you expected to find a priest. They will tell you that "all the American republics are collectively involved with each other; if the republics of the West were to fall into anarchy, or to be mastered by a despot, the republican institutions which now flourish upon the shores of the Atlantic Ocean would be in great peril. It is therefore our interest that the new States should be religious, in order to maintain our liberties."

Such are the opinions of the Americans, and if any hold that the religious spirit which I admire is the very thing most amiss in America, and that the only element wanting to the freedom and happiness of the human race is to believe in some blind cosmogony, or to assert with Cabanis the secretion of thought by the brain, I can only reply that those who hold this language have never been in America, and that they have never seen a religious or a free nation. When they return from their expedition, we shall hear what they have to say.

There are persons in France who look upon republican institutions as a temporary means of power, of wealth, and of distinction; men who are the condottieri of liberty,

and who fight for their own advantage, whatever be the colours they wear: it is not to these that I address myself. But there are others who look forward to the republican form of government as a tranquil and lasting state, toward which modern society is daily impelled by the ideas and manners of the time, and who sincerely desire to prepare men to be free. When these men attack religious opinions, they obey the dictates of their passions to the prejudice of their interests. Despotism may govern without faith, but liberty can not. Religion is much more necessary in the republic which they set forth in glowing colours than in the monarchy which they attack; and it is more needed in democratic republics than in any others. How is it possible that society should escape destruction if the moral tie be not strengthened in proportion as the political tie is relaxed? and what can be done with a people which is its own master, if it be not submissive to the Divinity?

The philosophers of the eighteenth century explained the gradual decay of religious faith in a very simple manner. Religious zeal, said they, must necessarily fail, the more generally liberty is established and knowledge diffused. Unfortunately, facts are by no means in accordance with their theory. There are certain populations in Europe whose unbelief is only equalled by their ignorance and their debasement, while in America one of the freest and most enlightened nations in the world fulfils all the outward duties of religion with fervour.

Upon my arrival in the United States, the religious aspect of the country was the first thing that struck my attention; and the longer I stayed there the more did I perceive the great political consequences resulting from this state of things, to which I was unaccustomed. In France I had almost always seen the spirit of religion and the spirit of freedom pursuing courses diametrically opposed to each other; but in America I found that they were intimately united, and that they reigned in common over the same country. My desire to discover the causes

of this phenomenon increased from day to day. In order to satisfy it I questioned the members of all the different sects; and I more especially sought the society of the clergy, who are the depositaries of the different persuasions, and who are more especially interested in their duration. As a member of the Roman Catholic Church I was more particularly brought into contact with several of its priests, with whom I became intimately acquainted. To each of these men I expressed my astonishment and I explained my doubts; I found that they differed upon matters of detail alone; and that they mainly attributed the peaceful dominion of religion in their country to the separation of Church and State. I do not hesitate to affirm that during my stay in America I did not meet with a single individual, of the clergy or of the laity, who was not of the same opinion upon this point.

This led me to examine more attentively than I had hitherto done, the station which the American clergy occupy in political society. I learned with surprise that they filled no public appointments; not one of them is to be met with in the administration, and they are not even represented in the legislative assemblies. In several States [4] the law excludes them from political life, public opinion in all. And when I came to inquire into the prevailing spirit of the clergy, I found that most of its members seemed to retire of their own accord from the exercise of power, and that they made it the pride of their profession to abstain from politics.

I heard them inveigh against ambition and deceit, under whatever political opinions these vices might chance to lurk; but I learned from their discourses that men are not guilty in the eye of God for any opinions concerning political government which they may profess with sincerity, any more than they are for their mistakes in building a house or in driving a furrow. I perceived that these ministers of the Gospel eschewed all parties with the anxiety attendant upon personal interest. These facts convinced me that what I had been told was true; and it then

became my object to investigate their causes, and to inquire how it happened that the real authority of religion was increased by a state of things which diminished its apparent force: these causes did not long escape my researches.

The short space of threescore years can never content the imagination of man; nor can the imperfect joys of this world satisfy his heart. Man alone, of all created beings, displays a natural contempt of existence, and yet a boundless desire to exist; he scorns life, but he dreads annihilation. These different feelings incessantly urge his soul to the contemplation of a future state, and religion directs his musings thither. Religion, then, is simply another form of hope; and it is no less natural to the human heart than hope itself. Men can not abandon their religious faith without a kind of aberration of intellect, and a sort of violent distortion of their true natures; but they are invincibly brought back to more pious sentiments; for unbelief is an accident, and faith is the only permanent state of mankind. If we only consider religious institutions in a purely human point of view, they may be said to derive an inexhaustible element of strength from man himself, since they belong to one of the constituent principles of human nature.

I am aware that at certain times religion may strengthen this influence, which originates in itself, by the artificial power of the laws, and by the support of those temporal institutions which direct society. Religions, intimately united to the governments of the earth, have been known to exercise a sovereign authority derived from the twofold source of terror and of faith; but when a religion contracts an alliance of this nature, I do not hesitate to affirm that it commits the same error as a man who should sacrifice his future to his present welfare; and in obtaining a power to which it has no claim, it risks that authority which is rightfully its own. When a religion founds its empire upon the desire of immortality which lives in every human heart, it may aspire to universal dominion; but

when it connects itself with a government, it must necessarily adopt maxims which are only applicable to certain nations. Thus, in forming an alliance with a political power, religion augments its authority over a few, and forfeits the hope of reigning over all.

As long as a religion rests upon those sentiments which are the consolation of all affliction, it may attract the affections of mankind. But if it be mixed up with the bitter passions of the world, it may be constrained to defend allies whom its interests, and not the principle of love, have given to it; or to repel as antagonists men who are still attached to its own spirit, however opposed they may be to the powers to which it is allied. The Church can not share the temporal power of the State without being the object of a portion of that animosity which the latter excites.

The political powers which seem to be most firmly established have frequently no better guarantee for their duration than the opinions of a generation, the interests of the time, or the life of an individual. A law may modify the social condition which seems to be most fixed and determinate; and with the social condition everything else must change. The powers of society are more or less fugitive, like the years which we spend upon the earth; they succeed each other with rapidity, like the fleeting cares of life; and no government has ever yet been founded upon an invariable disposition of the human heart, or upon an imperishable interest.

As long as a religion is sustained by those feelings, propensities, and passions which are found to occur under the same forms, at all the different periods of history, it may defy the efforts of time; or at least it can only be destroyed by another religion. But when religion clings to the interests of the world, it becomes almost as fragile a thing as the powers of earth. It is the only one of them all which can hope for immortality; but if it be connected with their ephemeral authority, it shares their fortunes, and may fall with those transient passions which supported

them for a day. The alliance which religion contracts with political powers must needs be onerous to itself; since it does not require their assistance to live, and by giving them its assistance it may be exposed to decay.

The danger which I have just pointed out always exists, but it is not always equally visible. In some ages governments seem to be imperishable; in others, the existence of society appears to be more precarious than the life of man. Some constitutions plunge the citizens into a lethargic somnolence, and others rouse them to feverish excitement. When governments appear to be so strong, and laws so stable, men do not perceive the dangers which may accrue from a union of Church and State. When governments display so much weakness, and laws so much inconstancy, the danger is self-evident, but it is no longer possible to avoid it; to be effectual, measures must be taken to discover its approach.

In proportion as a nation assumes a democratic condition of society, and as communities display democratic propensities, it becomes more and more dangerous to connect religion with political institutions; for the time is coming when authority will be bandied from hand to hand, when political theories will succeed each other, and when men, laws, and constitutions will disappear, or be modified from day to day, and this, not for a season only, but unceasingly. Agitation and mutability are inherent in the nature of democratic republics, just as stagnation and inertness are the law of absolute monarchies.

If the Americans, who change the head of the Government once in four years, who elect new legislators every two years, and renew the provincial officers every twelvemonth; if the Americans, who have abandoned the political world to the attempts of innovators, had not placed religion beyond their reach, where could it abide in the ebb and flow of human opinions? where would that respect which belongs to it be paid, amid the struggles of faction? and what would become of its immortality, in the midst of perpetual decay? The American clergy were the

first to perceive this truth, and to act in conformity with it. They saw that they must renounce their religious influence if they were to strive for political power; and they chose to give up the support of the State rather than to share its vicissitudes.

In America, religion is perhaps less powerful than it has been at certain periods in the history of certain peoples; but its influence is more lasting. It restricts itself to its own resources, but of those none can deprive it: its circle is limited to certain principles, but those principles are entirely its own, and under its undisputed control.

On every side in Europe we hear voices complaining of the absence of religious faith, and inquiring the means of restoring to religion some remnant of its pristine authority. It seems to me that we must first attentively consider what ought to be the natural state of men with regard to religion at the present time; and when we know what we have to hope and to fear, we may discern the end to which our efforts ought to be directed.

The two great dangers which threaten the existence of religions are schism and indifference. In ages of fervent devotion, men sometimes abandon their religion, but they only shake it off in order to adopt another. Their faith changes the objects to which it is directed, but it suffers no decline. The old religion then excites enthusiastic attachment or bitter enmity in either party; some leave it with anger, others cling to it with increased devotedness, and although persuasions differ, irreligion is unknown. Such, however, is not the case when a religious belief is secretly undermined by doctrines which may be termed negative, since they deny the truth of one religion without affirming that of any other. Prodigious revolutions then take place in the human mind, without the apparent cooperation of the passions of man, and almost without his knowledge. Men lose the objects of their fondest hopes, as if through forgetfulness. They are carried away by an imperceptible current which they have not the courage to stem, but which they follow with regret, since it bears

them from a faith they love to a scepticism that plunges them into despair.

In ages which answer to this description, men desert their religious opinions from lukewarmness rather than from dislike; they do not reject them, but the sentiments by which they were once fostered disappear. But if the unbeliever does not admit religion to be true, he still considers it useful. Regarding religious institutions in a human point of view, he acknowledges their influence upon manners and legislation. He admits that they may serve to make men live in peace with one another, and to prepare them gently for the hour of death. He regrets the faith which he has lost; and as he is deprived of a treasure which he has learned to estimate at its full value, he scruples to take it from those who still possess it.

On the other hand, those who continue to believe are not afraid openly to avow their faith. They look upon those who do not share their persuasion as more worthy of pity than of opposition; and they are aware that to acquire the esteem of the unbelieving, they are not obliged to follow their example. They are hostile to no one in the world; and as they do not consider the society in which they live as an arena in which religion is bound to face its thousand deadly foes, they love their contemporaries, while they condemn their weaknesses and lament their errors.

As those who do not believe, conceal their incredulity; and as those who believe, display their faith, public opinion pronounces itself in favour of religion: love, support, and honour are bestowed upon it, and it is only by searching the human soul that we can detect the wounds which it has received. The mass of mankind, who are never without the feeling of religion, do not perceive anything at variance with the established faith. The instinctive desire of a future life brings the crowd about the altar, and opens the hearts of men to the precepts and consolations of religion.

But this picture is not applicable to us: for there are

men among us who have ceased to believe in Christianity, without adopting any other religion; others who are in the perplexities of doubt, and who already affect not to believe; and others, again, who are afraid to avow that Christian faith which they still cherish in secret.

Amid these lukewarm partisans and ardent antagonists a small number of believers exist, who are ready to brave all obstacles and to scorn all dangers in defence of their faith. They have done violence to human weakness, in order to rise superior to public opinion. Excited by the effort they have made, they scarcely know where to stop; and as they know that the first use which the French made of independence was to attack religion, they look upon their contemporaries with dread, and they recoil in alarm from the liberty which their fellow-citizens are seeking to obtain. As unbelief appears to them to be a novelty, they comprise all that is new in one indiscriminate animosity. They are at war with their age and country, and they look upon every opinion which is put forth there as the necessary enemy of the Faith.

Such is not the natural state of men with regard to religion at the present day; and some extraordinary or incidental cause must be at work in France to prevent the human mind from following its original propensities and to drive it beyond the limits at which it ought naturally to stop. I am intimately convinced that this extraordinary and incidental cause is the close connection of politics and religion. The unbelievers of Europe attack the Christians as their political opponents, rather than as their religious adversaries; they hate the Christian religion as the opinion of a party, much more than as an error of belief; and they reject the clergy less because they are the representatives of the Divinity than because they are the allies of authority.

In Europe, Christianity has been intimately united to the powers of the earth. Those powers are now in decay, and it is, as it were, buried under their ruins. The living body of religion has been bound down to the dead corpse

of superannuated polity: cut but the bonds which restrain it, and that which is alive will rise once more. I know not what could restore the Christian Church of Europe to the energy of its earlier days; that power belongs to God alone; but it may be the effect of human policy to leave the Faith in the full exercise of the strength which it still retains.

I have but little to add to what I have already said concerning the influence which the instruction and the habits of the Americans exercise upon the maintenance of their political institutions.

America has hitherto produced very few writers of distinction; it possesses no great historians, and not a single eminent poet. The inhabitants of that country look upon what are properly styled literary pursuits with a kind of disapprobation; and there are towns of very second-rate importance in Europe in which more literary works are annually published than in the twenty-four States of the Union put together. The spirit of the Americans is averse to general ideas; and it does not seek theoretical discoveries. Neither politics nor manufactures direct them to these occupations; and although new laws are perpetually enacted in the United States, no great writers have hitherto inquired into the general principles of their legislation. The Americans have lawyers and commentators, but no jurists; and they furnish examples rather than lessons to the world. The same observation applies to the mechanical arts. In America, the inventions of Europe are adopted with sagacity; they are perfected, and adapted with admirable skill to the wants of the country. Manufactures exist, but the science of manufacture is not cultivated; and they have good workmen, but very few inventors. Fulton was obliged to proffer his services to foreign nations for a long time before he was able to devote them to his own country.

The observer who is desirous of forming an opinion on the state of instruction among the Anglo-Americans must consider the same object from two different points

of view. If he only singles out the learned, he will be astonished to find how rare they are; but if he counts the ignorant, the American people will appear to be the most enlightened community in the world. The whole population, as I observed in another place, is situated between these two extremes. In New England, every citizen receives the elementary notions of human knowledge; he is, moreover, taught the doctrines and the evidences of his religion, the history of his country, and the leading features of its Constitution. In the States of Connecticut and Massachusetts, it is extremely rare to find a man imperfectly acquainted with all these things, and a person wholly ignorant of them is a sort of phenomenon.

When I compare the Greek and Roman Republics with these American States; the manuscript libraries of the former, and their rude population, with the innumerable journals and the enlightened people of the latter; when I remember all the attempts that are made to judge the modern republics by the assistance of those of antiquity, and to infer what will happen in our time from what took place two thousand years ago, I am tempted to burn my books, in order to apply none but novel ideas to so novel a condition of society.

What I have said of New England must not, however, be applied indistinctly to the whole Union; as we advance toward the West or the South, the instruction of the people diminishes. In the States which are adjacent to the Gulf of Mexico, a certain number of individuals may be found, as in our own countries, who are devoid of the rudiments of instruction. But there is not a single district in the United States sunk in complete ignorance; and for a very simple reason: the peoples of Europe started from the darkness of a barbarous condition, to advance toward the light of civilization; their progress has been unequal; some of them have improved apace, while others have loitered in their course, and some have stopped, and are still sleeping upon the way.

Such has not been the case in the United States. The

Anglo-Americans settled in a state of civilization, upon that territory which their descendants occupy; they had not to begin to learn, and it was sufficient for them not to forget. Now the children of these same Americans are the persons who, year by year, transport their dwellings into the wilds; and with their dwellings their acquired information and their esteem for knowledge. Education has taught them the utility of instruction, and has enabled them to transmit that instruction to their posterity. In the United States society has no infancy, but it is born into man's estate.

The Americans never use the word "peasant," because they have no idea of the peculiar class which that term denotes; the ignorance of more remote ages, the simplicity of rural life, and the rusticity of the villager have not been preserved among them; and they are alike unacquainted with the virtues, the vices, the coarse habits, and the simple graces of an early stage of civilization. At the extreme borders of the confederate States, upon the confines of society and of the wilderness, a population of bold adventurers have taken up their abode, who pierce the solitudes of the American woods, and seek a country there, in order to escape that poverty which awaited them in their native provinces. As soon as the pioneer arrives upon the spot which is to serve him for a retreat, he fells a few trees and builds a log-house. Nothing can offer a more miserable aspect than these isolated dwellings. The traveller who approaches one of them toward nightfall, sees the flicker of the hearth-flame through the chinks in the walls; and at night, if the wind rises, he hears the roof of boughs shake to and fro in the midst of the great forest trees. Who would not suppose that this poor hut is the asylum of rudeness and ignorance? Yet no sort of comparison can be drawn between the pioneer and the dwelling which shelters him. Everything about him is primitive and unformed, but he is himself the result of the labour and the experience of eighteen centuries. He wears the dress and he speaks the language of cities; he is ac-

quainted with the past, curious of the future, and ready for argument upon the present; he is, in short, a highly civilized being, who consents, for a time, to inhabit the backwoods, and who penetrates into the wilds of the New World with the Bible, an axe, and a file of newspapers.

It is difficult to imagine the incredible rapidity with which public opinion circulates in the midst of these deserts.[5] I do not think that so much intellectual intercourse takes place in the most enlightened and populous districts of France.[6] It can not be doubted that, in the United States, the instruction of the people powerfully contributes to the support of a democratic republic; and such must always be the case, I believe, where instruction which awakens the understanding is not separated from moral education which amends the heart. But I by no means exaggerate this benefit, and I am still further from thinking, as so many people do think in Europe, that men can be made citizens instantaneously by teaching them to read and write. True information is mainly derived from experience; and if the Americans had not been gradually accustomed to govern themselves, their book-learning would not assist them much at the present day.

I have lived a great deal with the people in the United States, and I can not express how much I admire their experience and their good sense. An American should never be allowed to speak of Europe; for he will then probably display a vast deal of presumption and very foolish pride. He will take up with those crude and vague notions which are so useful to the ignorant all over the world. But if you question him respecting his own country, the cloud which dimmed his intelligence will immediately disperse; his language will become as clear and as precise as his thoughts. He will inform you what his rights are, and by what means he exercises them; he will be able to point out the customs which obtain in the political world. You will find that he is well acquainted with the rules of the administration, and that he is familiar with the mechanism of the laws. The citizen of the United States

does not acquire his practical science and his positive notions from books; the instruction he has acquired may have prepared him for receiving those ideas, but it did not furnish them. The American learns to know the laws by participating in the act of legislation; and he takes a lesson in the forms of government from governing. The great work of society is ever going on beneath his eyes, and, as it were, under his hands.

In the United States politics are the end and aim of education; in Europe its principal object is to fit men for private life. The interference of the citizens in public affairs is too rare an occurrence for it to be anticipated beforehand. Upon casting a glance over society in the two hemispheres, these differences are indicated even by its external aspect.

In Europe we frequently introduce the ideas and the habits of private life into public affairs; and as we pass at once from the domestic circle to the government of the State, we frequently may be heard to discuss the great interests of society in the same manner in which we converse with our friends. The Americans, on the other hand, transfuse the habits of public life into their manners in private; and in their country the jury is introduced into the games of schoolboys, and parliamentary forms are observed in the order of a feast.

I have remarked that the maintenance of democratic institutions in the United States is attributable to the circumstances, the laws, and the manners of that country.[7] Most Europeans are only acquainted with the first of these three causes, and they are apt to give it a preponderating importance which it does not really possess.

It is true that the Anglo-Americans settled in the New World in a state of social equality; the low-born and the noble were not to be found among them; and professional prejudices were always as entirely unknown as the prejudices of birth. Thus, as the condition of society was democratic, the empire of democracy was established without difficulty. But this circumstance is by no means peculiar

to the United States; almost all the transatlantic colonies were founded by men equal among themselves, or who became so by inhabiting them. In no one part of the New World have Europeans been able to create an aristocracy. Nevertheless, democratic institutions prosper nowhere but in the United States.

The American Union has no enemies to contend with; it stands in the wilds like an island in the ocean. But the Spaniards of South America were no less isolated by nature; yet their position has not relieved them from the charge of standing armies. They make war upon each other when they have no foreign enemies to oppose; and the Anglo-American democracy is the only one which has hitherto been able to maintain itself in peace.

The territory of the Union presents a boundless field to human activity, and inexhaustible materials for industry and labour. The passion of wealth takes the place of ambition, and the warmth of faction is mitigated by a sense of prosperity. But in what portion of the globe shall we meet with more fertile plains, with mightier rivers, or with more unexplored and inexhaustible riches than in South America?

Nevertheless, South America has been unable to maintain democratic institutions. If the welfare of nations depended on their being placed in a remote position, with an unbounded space of habitable territory before them, the Spaniards of South America would have no reason to complain of their fate. And although they might enjoy less prosperity than the inhabitants of the United States, their lot might still be such as to excite the envy of some nations in Europe. There are, however, no nations upon the face of the earth more miserable than those of South America.

Thus, not only are physical causes inadequate to produce results analogous to those which occur in North America, but they are unable to raise the population of South America above the level of European States, where they act in a contrary direction. Physical causes do not,

therefore, affect the destiny of nations so much as has been supposed.

I have met with men in New England who were on the point of leaving a country, where they might have remained in easy circumstances, to go to seek their fortune in the wilds. Not far from that district I found a French population in Canada, which was closely crowded on a narrow territory, although the same wilds were at hand; and while the emigrant from the United States purchased an extensive estate with the earnings of a short term of labour, the Canadian paid as much for land as he would have done in France. Nature offers the solitudes of the New World to Europeans; but they are not always acquainted with the means of turning her gifts to account. Other peoples of America have the same physical conditions of prosperity as the Anglo-Americans, but without their laws and their manners; and these peoples are wretched. The laws and manners of the Anglo-Americans are therefore that efficient cause of their greatness which is the object of my inquiry.

I am far from supposing that the American laws are pre-eminently good in themselves; I do not hold them to be applicable to all democratic peoples; and several of them seem to me to be dangerous, even in the United States. Nevertheless, it can not be denied that the American legislation, taken collectively, is extremely well adapted to the genius of the people and the nature of the country which it is intended to govern. The American laws are therefore good, and to them must be attributed a large portion of the success which attends the government of democracy in America: but I do not believe them to be the principal cause of that success; and if they seem to me to have more influence upon the social happiness of the Americans than the nature of the country, on the other hand there is reason to believe that their effect is still inferior to that produced by the manners of the people.

The Federal laws undoubtedly constitute the most important part of the legislation of the United States. Mex-

ico, which is not less fortunately situated than the Anglo-American Union, has adopted the same laws, but is unable to accustom itself to the government of democracy. Some other cause is therefore at work, independently of those physical circumstances and peculiar laws which enable the democracy to rule in the United States.

Another still more striking proof may be adduced. Almost all the inhabitants of the territory of the Union are the descendants of a common stock; they speak the same language, they worship God in the same manner, they are affected by the same physical causes, and they obey the same laws. Whence, then, do their characteristic differences arise? Why, in the Eastern States of the Union, does the republican Government display vigour and regularity, and proceed with mature deliberation? Whence does it derive the wisdom and the durability which mark its acts, while in the Western States, on the contrary, society seems to be ruled by the powers of chance? There, public business is conducted with an irregularity and a passionate and feverish excitement, which does not announce a long or sure duration.

I am no longer comparing the Anglo-American States to foreign nations; but I am contrasting them with each other, and endeavouring to discover why they are so unlike. The arguments which are derived from the nature of the country and the difference of legislation are here all set aside. Recourse must be had to some other cause; and what other cause can there be except the manners of the people?

It is in the Eastern States that the Anglo-Americans have been longest accustomed to the government of democracy, and that they have adopted the habits and conceived the notions most favourable to its maintenance. Democracy has gradually penetrated into their customs, their opinions, and the forms of social intercourse; it is to be found in all the details of daily life as equally as in the laws. In the Eastern States the instruction and practical education of the people have been most perfected, and

religion has been most thoroughly amalgamated with liberty. Now these habits, opinions, customs, and convictions are precisely the constituent elements of that which I have denominated manners.

In the Western States, on the contrary, a portion of the same advantages is still wanting. Many of the Americans of the West were born in the woods, and they mix the ideas and the customs of savage life with the civilization of their parents. Their passions are more intense; their religious morality less authoritative; and their convictions less secure. The inhabitants exercise no sort of control over their fellow-citizens, for they are scarcely acquainted with each other. The nations of the West display, to a certain extent, the inexperience and the rude habits of a people in its infancy; for although they are composed of old elements, their assemblage is of recent date.

The manners of the Americans of the United States are, then, the real cause which renders that people the only one of the American nations that is able to support a democratic Government; and it is the influence of manners which produces the different degrees of order and of prosperity that may be distinguished in the several Anglo-American democracies. Thus the effect which the geographical position of a country may have upon the duration of democratic institutions is exaggerated in Europe. Too much importance is attributed to legislation, too little to manners. These three great causes serve, no doubt, to regulate and direct the American democracy; but if they were to be classed in their proper order, I should say that the physical circumstances are less efficient than the laws, and the laws very subordinate to the manners of the people. I am convinced that the most advantageous situation and the best possible laws can not maintain a constitution in spite of the manners of a country; while the latter may turn the most unfavourable positions and the worst laws to some advantage. The importance of manners is a common truth to which study and

experience incessantly direct our attention. It may be regarded as a central point in the range of human observation, and the common termination of all inquiry. So seriously do I insist upon this head, that if I have hitherto failed in making the reader feel the important influence which I attribute to the practical experience, the habits, the opinions, in short, to the manners of the Americans, upon the maintenance of their institutions, I have failed in the principal object of my work.

I have asserted that the success of democratic institutions in the United States is more intimately connected with the laws themselves, and the manners of the people, than with the nature of the country. But does it follow that the same causes would of themselves produce the same results if they were put into operation elsewhere; and if the country is no adequate substitute for laws and manners, can laws and manners in their turn prove a substitute for the country? It will readily be understood that the necessary elements of a reply to this question are wanting: other peoples are to be found in the New World besides the Anglo-Americans, and as these people are affected by the same physical circumstances as the latter, they may fairly be compared together. But there are no nations out of America which have adopted the same laws and manners, being destitute of the physical advantages peculiar to the Anglo-Americans. No standard of comparison therefore exists, and we can only hazard an opinion upon this subject.

It appears to me, in the first place, that a careful distinction must be made between the institutions of the United States and democratic institutions in general. When I reflect upon the state of Europe, its mighty nations, its populous cities, its formidable armies, and the complex nature of its politics, I can not suppose that even the Anglo-Americans, if they were transported to our hemisphere, with their ideas, their religion, and their manners, could exist without considerably altering their laws. But a democratic nation may be imagined, organized dif-

ferently from the American people. It is not impossible to conceive a government really established upon the will of the majority; but in which the majority, repressing its natural propensity to equality, should consent, with a view to the order and the stability of the State, to invest a family or an individual with all the prerogatives of the executive. A democratic society might exist, in which the forces of the nation would be more centralized than they are in the United States; the people would exercise a less direct and less irresistible influence upon public affairs, and yet every citizen invested with certain rights would participate, within his sphere, in the conduct of the government. The observations I made among the Anglo-Americans induce me to believe that democratic institutions of this kind, prudently introduced into society, so as gradually to mix with the habits and to be interfused with the opinions of the people, might subsist in other countries besides America. If the laws of the United States were the only imaginable democratic laws, or the most perfect which it is possible to conceive, I should admit that the success of those institutions affords no proof of the success of democratic institutions in general, in a country less favoured by natural circumstances. But as the laws of America appear to me to be defective in several respects, and as I can readily imagine others of the same general nature, the peculiar advantages of that country do not prove that democratic institutions can not succeed in a nation less favoured by circumstances, if ruled by better laws.

If human nature were different in America from what it is elsewhere; or if the social condition of the Americans engendered habits and opinions among them different from those which originate in the same social condition in the Old World, the American democracies would afford no means of predicting what may occur in other democracies. If the Americans displayed the same propensities as all other democratic nations, and if their legislators had relied upon the nature of the country and the favour of circumstances to restrain those propensities within due limits,

the prosperity of the United States would be exclusively attributable to physical causes, and it would afford no encouragement to a people inclined to imitate their example, without sharing their natural advantages. But neither of these suppositions is borne out by facts.

In America the same passions are to be met with as in Europe; some originating in human nature, others in the democratic condition of society. Thus in the United States I found that restlessness of heart which is natural to men, when all ranks are nearly equal and the chances of elevation are the same to all. I found the democratic feeling of envy expressed under a thousand different forms. I remarked that the people frequently displayed, in the conduct of affairs, a consummate mixture of ignorance and presumption; and I inferred that in America men are liable to the same failings and the same absurdities as among ourselves. But upon examining the state of society more attentively, I speedily discovered that the Americans had made great and successful efforts to counteract these imperfections of human nature, and to correct the natural defects of democracy. Their divers municipal laws appeared to me to be a means of restraining the ambition of the citizens within a narrow sphere, and of turning those same passions which might have worked havoc in the State, to the good of the township or the parish. The American legislators have succeeded to a certain extent in opposing the notion of rights to the feelings of envy; the permanence of the religious world to the continual shifting of politics; the experience of the people to its theoretical ignorance; and its practical knowledge of business to the impatience of its desires.

The Americans, then, have not relied upon the nature of their country to counterpoise those dangers which originate in their Constitution and in their political laws. To evils which are common to all democratic peoples they have applied remedies which none but themselves had ever thought of before; and although they were the first to make the experiment, they have succeeded in it.

The manners and laws of the Americans are not the only ones which may suit a democratic people; but the Americans have shown that it would be wrong to despair of regulating democracy by the aid of manners and of laws. If other nations should borrow this general and pregnant idea from the Americans, without, however, intending to imitate them in the peculiar application which they have made of it; if they should attempt to fit themselves for that social condition, which it seems to be the will of Providence to impose upon the generations of this age, and so to escape from the despotism or the anarchy which threatens them; what reason is there to suppose that their efforts would not be crowned with success? The organization and the establishment of democracy in Christendom is the great political problem of the time. The Americans, unquestionably, have not resolved this problem, but they furnish useful data to those who undertake the task.

It may readily be discovered with what intention I undertook the foregoing inquiries. The question here discussed is interesting not only to the United States, but to the whole world; it concerns, not a nation, but all mankind. If those nations whose social condition is democratic could only remain free as long as they are inhabitants of the wilds, we could not but despair of the future destiny of the human race; for democracy is rapidly acquiring a more extended sway, and the wilds are gradually peopled with men. If it were true that laws and manners are insufficient to maintain democratic institutions, what refuge would remain open to the nations, except the despotism of a single individual? I am aware that there are many worthy persons at the present time who are not alarmed at this latter alternative, and who are so tired of liberty as to be glad of repose, far from those storms by which it is attended. But these individuals are ill acquainted with the haven toward which they are bound. They are so deluded by their recollections as to judge the tendency of absolute power by what it was formerly, and not by what it might become at the present time.

If absolute power were re-established among the democratic nations of Europe, I am persuaded that it would assume a new form, and appear under features unknown to our forefathers. There was a time in Europe when the laws and the consent of the people had invested princes with almost unlimited authority; but they scarcely ever availed themselves of it. I do not speak of the prerogatives of the nobility, of the authority of supreme courts of justice, of corporations and their chartered rights, or of provincial privileges, which served to break the blows of the sovereign authority, and to maintain a spirit of resistance in the nation. Independently of these political institutions—which, however opposed they might be to personal liberty, served to keep alive the love of freedom in the mind of the public, and which may be esteemed to have been useful in this respect—the manners and opinions of the nation confined the royal authority within barriers which were not less powerful, although they were less conspicuous. Religion, the affections of the people, the benevolence of the prince, the sense of honour, family pride, provincial prejudices, custom, and public opinion limited the power of kings, and restrained their authority within an invisible circle. The constitution of nations was despotic at that time, but their manners were free. Princes had the right, but they had neither the means nor the desire, of doing whatever they pleased.

But what now remains of those barriers which formerly arrested the aggressions of tyranny? Since religion has lost its empire over the souls of men, the most prominent boundary which divided good from evil is overthrown; the very elements of the moral world are indeterminate; the princes and the peoples of the earth are guided by chance, and none can define the natural limits of despotism and the bounds of license. Long revolutions have forever destroyed the respect which surrounded the rulers of the State; and since they have been relieved from the burden of public esteem, princes may henceforward surrender themselves without fear to the seductions of arbitrary power.

When kings find that the hearts of their subjects are turned toward them, they are clement, because they are conscious of their strength, and they are chary of the affection of their people, because the affection of their people is the bulwark of the throne. A mutual interchange of good-will then takes place between the prince and the people, which resembles the gracious intercourse of domestic society. The subjects may murmur at the sovereign's decree, but they are grieved to displease him; and the sovereign chastises his subjects with the light hand of parental affection.

But when once the spell of royalty is broken in the tumult of revolution; when successive monarchs have crossed the throne, so as alternately to display to the people the weakness of their right and the harshness of their power, the sovereign is no longer regarded by any as the Father of the State, and he is feared by all as its master. If he be weak, he is despised; if he be strong, he is detested. He is himself full of animosity and alarm; he finds that he is as a stranger in his own country, and he treats his subjects like conquered enemies.

When the provinces and the towns formed so many different nations in the midst of their common country, each of them had a will of its own, which was opposed to the general spirit of subjection; but now that all the parts of the same empire, after having lost their immunities, their customs, their prejudices, their traditions, and their names, are subjected and accustomed to the same laws, it is not more difficult to oppress them collectively than it was formerly to oppress them singly.

While the nobles enjoyed their power, and indeed long after that power was lost, the honour of aristocracy conferred an extraordinary degree of force upon their personal opposition. They afforded instances of men who, notwithstanding their weakness, still entertained a high opinion of their personal value, and dared to cope single-handed with the efforts of the public authority. But at the present day, when all ranks are more and more con-

founded, when the individual disappears in the throng, and is easily lost in the midst of a common obscurity, when the honour of monarchy has almost lost its empire without being succeeded by public virtue, and when nothing can enable man to rise above himself, who shall say at what point the exigencies of power and the servility of weakness will stop?

As long as family feeling was kept alive, the antagonist of oppression was never alone; he looked about him, and found his clients, his hereditary friends, and his kinsfolk. If this support was wanting, he was sustained by his ancestors and animated by his posterity. But when patrimonial estates are divided, and when a few years suffice to confound the distinctions of a race, where can family feeling be found? What force can there be in the customs of a country which has changed and is still perpetually changing its aspect; in which every act of tyranny has a precedent, and every crime an example; in which there is nothing so old that its antiquity can save it from destruction, and nothing so unparalleled that its novelty can prevent it from being done? What resistance can be offered by manners of so pliant a make that they have already often yielded? What strength can even public opinion have retained, when no twenty persons are connected by a common tie; when not a man, nor a family, nor chartered corporation, nor class, nor free institution, has the power of representing or exerting that opinion; and when every citizen—being equally weak, equally poor, and equally dependent—has only his personal impotence to oppose to the organized force of the Government?

The annals of France furnish nothing analogous to the condition in which that country might then be thrown. But it may more aptly be assimilated to the times of old, and to those hideous eras of Roman oppression, when the manners of the people were corrupted, their traditions obliterated, their habits destroyed, their opinions shaken, and freedom, expelled from the laws, could find no refuge in the land; when nothing protected the citizens, and the

citizens no longer protected themselves; when human nature was the sport of man, and princes wearied out the clemency of Heaven before they exhausted the patience of their subjects. Those who hope to revive the monarchy of Henry IV or of Louis XIV appear to me to be afflicted with mental blindness; and when I consider the present condition of several European nations—a condition to which all the others tend—I am led to believe that they will soon be left with no other alternative than democratic liberty, or the tyranny of the Cæsars.

And, indeed, it is deserving of consideration, whether men are to be entirely emancipated or entirely enslaved; whether their rights are to be made equal, or wholly taken away from them. If the rulers of society were reduced either gradually to raise the crowd to their own level, or to sink the citizens below that of humanity, would not the doubts of many be resolved, the consciences of many be healed, and the community prepared to make great sacrifices with little difficulty? In that case, the gradual growth of democratic manners and institutions should be regarded, not as the best, but as the only means of preserving freedom; and without liking the government of democracy, it might be adopted as the most applicable and the fairest remedy for the present ills of society.

It is difficult to associate a people in the work of government; but it is still more difficult to supply it with experience, and to inspire it with the feelings which it requires in order to govern well. I grant that the caprices of democracy are perpetual; its instruments are rude; its laws imperfect. But if it were true that soon no just medium would exist between the empire of democracy and the dominion of a single arm, should we not rather incline toward the former than submit voluntarily to the latter? And if complete equality be our fate, is it not better to be levelled by free institutions than by despotic power?

Those who, after having read this book, should imagine that my intention in writing it has been to propose the laws and manners of the Anglo-Americans for the

imitation of all democratic peoples, would commit a very great mistake; they must have paid more attention to the form than to the substance of my ideas. My aim has been to show, by the example of America, that laws, and especially manners, may exist which will allow a democratic people to remain free. But I am very far from thinking that we ought to follow the example of the American democracy, and copy the means which it has employed to attain its ends; for I am well aware of the influence which the nature of a country and its political precedents exercise upon a constitution; and I should regard it as a great misfortune for mankind if liberty were to exist over all the world under the same forms.

But I am of opinion that if we do not succeed in gradually introducing democratic institutions into France, and if we despair of imparting to the citizens those ideas and sentiments which first prepare them for freedom, and afterward allow them to enjoy it, there will be no independence at all, either for the middle classes or the nobility, for the poor or for the rich, but an equal tyranny over all; and I foresee that if the peaceable empire of the majority be not founded among us in time, we shall sooner or later arrive at the unlimited authority of a single despot.

Notes

[1] The United States have no metropolis, but they already contain several very large cities. Philadelphia reckoned 161,000 inhabitants and New York 202,000 in the year 1830. The lower orders which inhabit these cities constitute a rabble even more formidable than the populace of European towns. They consist of freed blacks, in the first place, who are condemned by the laws and by public opinion to an hereditary state of misery and degradation. They also contain a multitude of Europeans who have been driven to the shores of the New World by their misfortunes or their misconduct; and these men inoculate the United States with all our vices, without bringing with them any of those interests which counteract their baneful influence. As inhabitants of a country where they have no civil rights, they are ready to turn all the passions which agitate the community to their own advantage; thus within the last few months serious riots have broken out in Philadelphia and in New York. Disturbances of this kind are unknown in the rest of the country, which is nowise alarmed by them, because the population of the cities has hitherto exercised neither power nor influence over the rural districts. Neverthe-

less, I look upon the size of certain American cities, and especially on the nature of their population, as a real danger which threatens the future security of the democratic republics of the New World; and I venture to predict that they will perish from this circumstance unless the Government succeeds in creating an armed force, which, while it remains under the control of the majority of the nation, will be independent of the town population, and able to repress its excesses.

[2] In New England the estates are exceedingly small, but they are rarely subjected to further division.

[3] The New York "Spectator" of August 23, 1831, relates the fact in the following terms: "The Court of Common Pleas of Westchester County (New York) a few days since rejected a witness who declared his disbelief in the existence of God. The presiding judge remarked that he had not before been aware that there was a man living who did not believe in the existence of God; that this belief constituted the sanction of all testimony in a court of justice, and that he knew of no cause in a Christian country where a witness had been permitted to testify without such belief."

[4] See the "Constitution of New York," art. 7, § 4: "And whereas the ministers of the Gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions: therefore no minister of the Gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding, any civil or military office or place within this State." See also the "Constitutions of North Carolina," art. 31. Virginia. South Carolina, art. 1, § 23. Kentucky, art. 2, § 26. Tennessee, art. 8, § 1. Louisiana, art. 2, § 22.

[5] I travelled along a portion of the frontier of the United States in a sort of cart which was termed the mail. We passed, day and night, with great rapidity along the roads, which were scarcely marked out, through immense forests; when the gloom of the woods became impenetrable the coachman lighted branches of fir, and we journeyed along by the light they cast. From time to time we came to a hut in the midst of the forest, which was a post-office. The mail dropped an enormous bundle of letters at the door of this isolated dwelling, and we pursued our way at full gallop, leaving the inhabitants of the neighbouring log-houses to send for their share of the treasure.

[6] In 1832 each inhabitant of Michigan paid a sum equivalent to 1 fr. 22 cent. (French money) to the post-office revenue, and each inhabitant of the Floridas paid 1 fr. 5 cent. (See "National Calendar," 1833, p. 244.) In the same year each inhabitant of the Département du Nord paid 1 fr. 4 cent. to the revenue of the French post-office. (See the "Compte rendu de l'administration des Finances," 1833, p. 623.) Now the State of Michigan contained at that time only 7 inhabitants per square league, and Florida only 5; the public instruction and the commercial activity of these districts is inferior to that of most of the States in the Union, while the Département du Nord, which contains 3,400 inhabitants per square league, is one of the most enlightened and manufacturing parts of France.

[7] I remind the reader of the general signification which I give to the word manners—namely, the moral and intellectual characteristics of social man taken collectively.

CHAPTER XVIII

THE PRESENT, AND PROBABLE FUTURE CONDITION OF THE THREE RACES INHABITING THE TERRITORY OF THE UNITED STATES

Races of North America—Condition of the Indian tribes which inhabit the territory possessed by the Union—Situation of the black population in the United States, and dangers with which its presence threatens the Whites.

THE principal part of the task which I had imposed upon myself is now performed. I have shown, as far as I was able, the laws and the manners of the American democracy. Here I might stop; but the reader would perhaps feel that I had not satisfied his expectations.

The absolute supremacy of democracy is not all that we meet with in America; the inhabitants of the New World may be considered from more than one point of view. In the course of this work my subject has often led me to speak of the Indians and the Negroes; but I never have been able to stop in order to show what place these two races occupy in the midst of the democratic people whom I was engaged in describing. I have mentioned in what spirit, and according to what laws, the Anglo-American Union was formed; but I could only glance at the dangers which menace that confederation, while it was equally impossible for me to give a detailed account of its chances of duration, independently of its laws and manners. When speaking of the United republican States, I hazarded no conjectures upon the permanence of republican forms in the New World, and when

making frequent allusion to the commercial activity which reigns in the Union, I was unable to inquire into the future condition of the Americans as a commercial people.

These topics are collaterally connected with my subject without forming a part of it; they are American without being democratic; and to portray democracy has been my principal aim. It was therefore necessary to postpone these questions, which I now take up as the proper termination of my work.

The territory now occupied or claimed by the American Union spreads from the shores of the Atlantic to those of the Pacific Ocean. On the East and West its limits are those of the continent itself. On the South it advances nearly to the Tropic, and it extends upward to the icy regions of the North. The human beings who are scattered over this space do not form, as in Europe, so many branches of the same stock. Three races, naturally distinct, and, I might almost say, hostile to each other, are discoverable among them at the first glance. Almost insurmountable barriers have been raised between them by education and by law, as well as by their origin and outward characteristics; but fortune has brought them together on the same soil, where, although they are mixed, they do not amalgamate, and each race fulfils its destiny apart.

Among these widely differing families of men, the first which attracts attention, the superior in intelligence, in power and in enjoyment, is the White or European, the man pre-eminent; and in subordinate grades, the Negro and the Indian. These two unhappy races have nothing in common: neither birth, nor features, nor language, nor habits. Their only resemblance lies in their misfortunes. Both of them occupy an inferior rank in the country they inhabit; both suffer from tyranny; and if their wrongs are not the same, they originate, at any rate, with the same authors.

If we reasoned from what passes in the world, we should almost say that the European is to the other races

of mankind what man is to the lower animals—he makes them subservient to his use; and when he can not subdue, he destroys them. Oppression has, at one stroke, deprived the descendants of the Africans of almost all the privileges of humanity. The Negro of the United States has lost all remembrance of his country; the language which his forefathers spoke is never heard around him; he abjured their religion and forgot their customs when he ceased to belong to Africa, without acquiring any claim to European privileges. But he remains half-way between the two communities; sold by the one, repulsed by the other; finding not a spot in the universe to call by the name of country, except the faint image of a home which the shelter of his master's roof affords.

The Negro has no family; woman is merely the temporary companion of his pleasures, and his children are upon an equality with himself from the moment of their birth. Am I to call it a proof of God's mercy or a visitation of his wrath, that man in certain states appears to be insensible to his extreme wretchedness, and almost affects, with a depraved taste, the cause of his misfortunes? The Negro, who is plunged in this abyss of evils, scarcely feels his own calamitous situation. Violence made him a slave, and the habit of servitude gives him the thoughts and desires of a slave; he admires his tyrants more than he hates them, and finds his joy and his pride in the servile imitation of those who oppress him: his understanding is degraded to the level of his soul.

The Negro enters upon slavery as soon as he is born: nay, he may have been purchased in the womb, and have begun his slavery before he began his existence. Equally devoid of wants and of enjoyment, and useless to himself, he learns, with his first notions of existence, that he is the property of another, who has an interest in preserving his life, and that the care of it does not devolve upon himself; even the power of thought appears to him a useless gift of Providence, and he quietly enjoys the privileges of his debasement. If he becomes free, independence is often

felt by him to be a heavier burden than slavery; for having learned, in the course of his life, to submit to everything except reason, he is too much unacquainted with her dictates to obey them. A thousand new desires beset him, and he is destitute of the knowledge and energy necessary to resist them: these are masters which it is necessary to contend with, and he has learned only to submit and obey. In short, he sinks to such a depth of wretchedness that, while servitude brutalizes, liberty destroys him.

Oppression has been no less fatal to the Indian than to the Negro race, but its effects are different. Before the arrival of white men in the New World, the inhabitants of North America lived quietly in their woods, enduring the vicissitudes and practising the virtues and vices common to savage nations. The Europeans, having dispersed the Indian tribes and driven them into the deserts, condemned them to a wandering life full of inexpressible sufferings.

Savage nations are only controlled by opinion and by custom. When the North American Indians had lost the sentiment of attachment to their country; when their families were dispersed, their traditions obscured, and the chain of their recollections broken; when all their habits were changed, and their wants increased beyond measure, European tyranny rendered them more disorderly and less civilized than they were before. The moral and physical condition of these tribes continually grew worse, and they became more barbarous as they became more wretched. Nevertheless, the Europeans have not been able to metamorphose the character of the Indians; and though they have had power to destroy them, they have never been able to make them submit to the rules of civilized society.

The lot of the Negro is placed on the extreme limit of servitude, while that of the Indian lies on the uttermost verge of liberty; and slavery does not produce more fatal effects upon the first than independence upon the second. The Negro has lost all property in his own person, and he can not dispose of his existence without committing

a sort of fraud: but the savage is his own master as soon as he is able to act; parental authority is scarcely known to him; he never has bent his will to that of any of his kind, nor learned the difference between voluntary obedience and a shameful subjection; and the very name of law is unknown to him. To be free, with him, signifies to escape from all the shackles of society. As he delights in this barbarous independence, and would rather perish than sacrifice the least part of it, civilization has little power over him.

The Negro makes a thousand fruitless efforts to insinuate himself among men who repulse him; he conforms to the tastes of his oppressors, adopts their opinions, and hopes by imitating them to form a part of their community. Having been told from infancy that his race is naturally inferior to that of the Whites, he assents to the proposition and is ashamed of his own nature. In each of his features he discovers a trace of slavery, and, if it were in his power, he would willingly rid himself of everything that makes him what he is.

The Indian, on the contrary, has his imagination inflated with the pretended nobility of his origin, and lives and dies in the midst of these dreams of pride. Far from desiring to conform his habits to ours, he loves his savage life as the distinguishing mark of his race, and he repels every advance of civilization, less perhaps from the hatred which he entertains for it, than from a dread of resembling the Europeans.[1] While he has nothing to oppose to our perfection in the arts but the resources of the desert, to our tactics nothing but undisciplined courage; while our well-digested plans are met by the spontaneous instincts of savage life, who can wonder if he fails in this unequal contest?

The Negro, who earnestly desires to mingle his race with that of the European, can not effect it; while the Indian, who might succeed to a certain extent, disdains to make the attempt. The servility of the one dooms him to slavery, the pride of the other to death.

I remember that while I was travelling through the forests which still cover the State of Alabama, I arrived one day at the log-house of a pioneer. I did not wish to penetrate into the dwelling of the American, but retired to rest myself for a while on the margin of a spring, which was not far off, in the woods. While I was in this place (which was in the neighbourhood of the Creek territory), an Indian woman appeared, followed by a Negress, and holding by the hand a little white girl, five or six years old, whom I took to be the daughter of the pioneer. A sort of barbarous luxury set off the costume of the Indian; rings of metal were hanging from her nostrils and ears; her hair, which was adorned with glass beads, fell loosely upon her shoulders; and I saw that she was not married, for she still wore that necklace of shells which the bride always deposits on the nuptial couch. The Negress was clad in squalid European garments. They all three came and seated themselves upon the banks of the fountain; and the young Indian, taking the child in her arms, lavished upon her such fond caresses as mothers give; while the Negress endeavoured by various little artifices to attract the attention of the young Creole.

The child displayed in her slightest gestures a consciousness of superiority which formed a strange contrast with her infantine weakness; as if she received the attentions of her companions with a sort of condescension. The Negress was seated on the ground before her mistress, watching her smallest desires, and apparently divided between strong affection for the child and servile fear; while the savage displayed, in the midst of her tenderness, an air of freedom and of pride which was almost ferocious. I had approached the group, and I contemplated them in silence; but my curiosity was probably displeasing to the Indian woman, for she suddenly rose, pushed the child roughly from her, and giving me an angry look plunged into the thicket. I had often chanced to see individuals met together in the same place, who belonged to the three races of men which people North America. I had per-

ceived from many different results the preponderance of the Whites. But in the picture which I have just been describing there was something peculiarly touching; a bond of affection here united the oppressors with the oppressed, and the effort of Nature to bring them together rendered still more striking the immense distance placed between them by prejudice and by law.

None of the Indian tribes which formerly inhabited the territory of New England—the Narragansetts, the Mohicans, the Pequots—have any existence but in the recollection of man. The Lenapes, who received William Penn, a hundred and fifty years ago, upon the banks of the Delaware, have disappeared; and I myself met with the last of the Iroquois, who were begging alms. The nations I have mentioned formerly covered the country to the sea-coast; but a traveller at the present day must penetrate more than a hundred leagues into the interior of the continent to find an Indian. Not only have these wild tribes receded, but they are destroyed; [2] and as they give way or perish, an immense and increasing people fills their place. There is no instance upon record of so prodigious a growth, or so rapid a destruction: the manner in which the latter change takes place is not difficult to describe.

When the Indians were the sole inhabitants of the wilds from whence they have since been expelled, their wants were few. Their arms were of their own manufacture, their only drink was the water of the brook, and their clothes consisted of the skins of animals, whose flesh furnished them with food.

The Europeans introduced among the savages of North America fire-arms, ardent spirits, and iron: they taught them to exchange for manufactured stuffs the rough garments which had previously satisfied their untutored simplicity. Having acquired new tastes, without the arts by which they could be gratified, the Indians were obliged to have recourse to the workmanship of the Whites; but in return for their productions the savage had nothing to offer except the rich furs which still abounded in his woods.

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Hence the chase became necessary, not merely to provide for his subsistence, but in order to procure the only objects of barter which he could furnish to Europe.[3] While the wants of the natives were thus increasing, their resources continued to diminish.

From the moment when a European settlement is formed in the neighbourhood of the territory occupied by the Indians, the beasts of chase take the alarm.[4] Thousands of savages, wandering in the forests and destitute of any fixed dwelling, did not disturb them; but as soon as the continuous sounds of European labour are heard in their neighbourhood, they begin to flee away, and retire to the West, where their instinct teaches them that they will find deserts of immeasurable extent. "The buffalo is constantly receding," say Messrs. Clarke and Cass in their Report of the year 1829; "a few years since they approached the base of the Alleghany; and a few years hence they may even be rare upon the immense plains which extend to the base of the Rocky Mountains." I have been assured that this effect of the approach of the Whites is often felt at two hundred leagues' distance from their frontier. Their influence is thus exerted over tribes whose name is unknown to them; and who suffer the evils of usurpation long before they are acquainted with the authors of their distress.[5]

Bold adventurers soon penetrate into the country the Indians have deserted, and when they have advanced about fifteen or twenty leagues from the extreme frontiers of the Whites, they begin to build habitations for civilized beings in the midst of the wilderness. This is done without difficulty, as the territory of a hunting nation is ill defined; it is the common property of the tribe, and belongs to no one in particular, so that individual interests are not concerned in the protection of any part of it.

A few European families, settled in different situations at a considerable distance from each other, soon drive away the wild animals which remain between their places of abode. The Indians, who had previously lived in a sort

of abundance, then find it difficult to subsist, and still more difficult to procure the articles of barter which they stand in need of.

To drive away their game is to deprive them of the means of existence as effectually as if the fields of our agriculturists were stricken with barrenness; and they are reduced, like famished wolves, to prowl through the forsaken woods in quest of prey. Their instinctive love of their country attaches them to the soil which gave them birth,[6] even after it has ceased to yield anything but misery and death. At length they are compelled to acquiesce, and to depart: they follow the traces of the elk, the buffalo, and the beaver, and are guided by these wild animals in the choice of their future country. Properly speaking, therefore, it is not the Europeans who drive away the native inhabitants of America; it is famine which compels them to recede; a happy distinction which had escaped the casuists of former times, and for which we are indebted to modern discovery!

It is impossible to conceive the extent of the sufferings which attend these forced emigrations. They are undertaken by a people already exhausted and reduced; and the countries to which the new-comers betake themselves are inhabited by other tribes which receive them with jealous hostility. Hunger is in the rear; war awaits them, and misery besets them on all sides. In the hope of escaping from such a host of enemies, they separate, and each individual endeavours to procure the means of supporting his existence in solitude and secrecy, living in the immensity of the desert like an outcast in civilized society. The social tie, which distress had long since weakened, is then dissolved; they have lost their country, and their people soon desert them: their very families are obliterated; the names they bore in common are forgotten, their language perishes, and all traces of their origin disappear. Their nation has ceased to exist, except in the recollection of the antiquaries of America and a few of the learned of Europe.

I should be sorry to have my reader suppose that I am colouring the picture too highly; I saw with my own eyes several of the cases of misery which I have been describing; and I was the witness of sufferings which I have not the power to portray.

At the end of the year 1831, while I was on the left bank of the Mississippi at a place named by Europeans Memphis, there arrived a numerous band of Choctaws (or Chactas, as they are called by the French in Louisiana). These savages had left their country, and were endeavouring to gain the right bank of the Mississippi, where they hoped to find an asylum which had been promised them by the American Government. It was then the middle of winter, and the cold was unusually severe; the snow had frozen hard upon the ground, and the river was drifting huge masses of ice. The Indians had their families with them; and they brought in their train the wounded and the sick, with children newly born, and old men upon the verge of death. They possessed neither tents nor wagons, but only their arms and some provisions. I saw them embark to pass the mighty river, and never will that solemn spectacle fade from my remembrance. No cry, no sob was heard among the assembled crowd; all were silent. Their calamities were of ancient date, and they knew them to be irremediable. The Indians had all stepped into the bark which was to carry them across, but their dogs remained upon the bank. As soon as these animals perceived that their masters were finally leaving the shore, they set up a dismal howl, and, plunging all together into the icy waters of the Mississippi, they swam after the boat.

The ejectment of the Indians very often takes place at the present day, in a regular, and, as it were, a legal manner. When the European population begins to approach the limit of the desert inhabited by a savage tribe, the Government of the United States usually despatches envoys to them, who assemble the Indians in a large plain, and having first eaten and drunk with them, accost them in the following manner: "What have you to do in the

land of your fathers? Before long, you must dig up their bones in order to live. In what respect is the country you inhabit better than another? Are there no woods, marshes, or prairies, except where you dwell? And can you live nowhere but under your own sun? Beyond those mountains which you see at the horizon, beyond the lake which bounds your territory on the West, there lie vast countries where beasts of chase are found in great abundance; sell your lands to us, and go to live happily in those solitudes." After holding this language, they spread before the eyes of the Indians fire-arms, woollen garments, kegs of brandy, glass necklaces, bracelets of tinsel, earrings, and looking-glasses.[7] If, when they have beheld all these riches, they still hesitate, it is insinuated that they have not the means of refusing their required consent, and that the Government itself will not long have the power of protecting them in their rights. What are they to do? Half convinced, and half compelled, they go to inhabit new deserts, where the importunate Whites will not let them remain ten years in tranquility. In this manner do the Americans obtain, at a very low price, whole provinces, which the richest sovereigns of Europe could not purchase.[8]

These are great evils; and it must be added that they appear to me to be irremediable. I believe that the Indian nations of North America are doomed to perish; and that whenever the Europeans shall be established on the shores of the Pacific Ocean, that race of men will be no more.[9] The Indians had only the two alternatives of war or civilization; in other words, they must either have destroyed the Europeans or become their equals.

At the first settlement of the colonies they might have found it possible, by uniting their forces, to deliver themselves from the small bodies of strangers who landed on their continent.[10] They several times attempted to do it, and were on the point of succeeding; but the disproportion of their resources, at the present day, when compared with those of the Whites, is too great to allow such an

enterprise to be thought of. Nevertheless, men of penetration arise from time to time among the Indians, who foresee the final destiny which awaits the native population, and who exert themselves to unite all the tribes in common hostility to the Europeans; but their efforts are unavailing. Those tribes which are in the neighbourhood of the Whites, are too much weakened to offer an effectual resistance; while the others, giving way to that childish carelessness of the morrow which characterizes savage life, wait for the near approach of danger before they prepare to meet it; some are unable, the others are unwilling, to exert themselves.

It is easy to foresee that the Indians will never conform to civilization; or that it will be too late, whenever they may be inclined to make the experiment.

Civilization is the result of a long social process which takes place in the same spot, and is handed down from one generation to another, each one profiting by the experience of the last. Of all nations, those submit to civilization with the most difficulty which habitually live by the chase. Pastoral tribes, indeed, often change their place of abode; but they follow a regular order in their migrations, and often return again to their old stations, while the dwelling of the hunter varies with that of the animals he pursues.

Several attempts have been made to diffuse knowledge among the Indians, without controlling their wandering propensities; by the Jesuits in Canada, and by the Puritans in New England;[11] but none of these endeavours were crowned by any lasting success. Civilization began in the cabin, but it soon retired to expire in the woods. The great error of these legislators of the Indians was their not understanding that, in order to succeed in civilizing a people, it is first necessary to fix it; which can not be done without inducing it to cultivate the soil; the Indians ought in the first place to have been accustomed to agriculture. But not only are they destitute of this indispensable preliminary to civilization, they would even

have great difficulty in acquiring it. Men who have once abandoned themselves to the restless and adventurous life of the hunter, feel an insurmountable disgust for the constant and regular labour which tillage requires. We see this proved in the bosom of our own society; but it is far more visible among peoples whose partiality for the chase is a part of their national character.

Independently of this general difficulty, there is another, which applies peculiarly to the Indians: they consider labour not merely as an evil, but as a disgrace; so that their pride prevents them from becoming civilized, as much as their indolence.[12]

There is no Indian so wretched as not to retain under his hut of bark a lofty idea of his personal worth; he considers the cares of industry and labour as degrading occupations; he compares the husbandman to the ox which traces the furrow; and even in our most ingenious handicraft he can see nothing but the labour of slaves. Not that he is devoid of admiration for the power and intellectual greatness of the Whites; but although the result of our efforts surprises him, he contemns the means by which we obtain it; and while he acknowledges our ascendency, he still believes in his superiority. War and hunting are the only pursuits which appear to him worthy to be the occupations of a man.[13] The Indian, in the dreary solitudes of his woods, cherishes the same ideas, the same opinions as the noble of the Middle Ages in his castle, and he only requires to become a conqueror to complete the resemblance; thus, however strange it may seem, it is in the forests of the New World, and not among the Europeans who people its coasts, that the ancient prejudices of Europe are still in existence.

More than once, in the course of this work, I have endeavoured to explain the prodigious influence which the social condition appears to exercise upon the laws and the manners of men; and I beg to add a few words on the same subject.

When I perceive the resemblance which exists between

the political institutions of our ancestors, the Germans, and of the wandering tribes of North America; between the customs described by Tacitus, and those of which I have sometimes been a witness, I can not help thinking that the same cause has brought about the same results in both hemispheres; and that in the midst of the apparent diversity of human affairs a certain number of primary facts may be discovered, from which all the others are derived. In what we usually call the German institutions, then, I am inclined to perceive only barbarian habits; and the opinions of savages in what we style feudal principles.

However strongly the vices and prejudices of the North American Indians may be opposed to their becoming agricultural and civilized, necessity sometimes obliges them to it. Several of the Southern nations, and among others the Cherokees and the Creeks,[14] were surrounded by Europeans, who had landed on the shores of the Atlantic; and who, either descending the Ohio or proceeding up the Mississippi, arrived simultaneously upon their borders. These tribes have not been driven from place to place, like their Northern brethren; but they have been gradually inclosed within narrow limits, like the game within the thicket, before the huntsmen plunge into the interior. The Indians who were thus placed between civilization and death, found themselves obliged to live by ignominious labour like the Whites. They took to agriculture, and without entirely forsaking their old habits or manners, sacrificed only as much as was necessary to their existence.

The Cherokees went further; they created a written language; established a permanent form of government; and as everything proceeds rapidly in the New World, before all of them had clothes they set up a newspaper.[15]

The growth of European habits has been remarkably accelerated among these Indians by the mixed race which has sprung up.[16] Deriving intelligence from their father's side, without entirely losing the savage customs of the mother, the half-blood forms the natural link between

civilization and barbarism. Wherever this race has multiplied the savage state has become modified, and a great change has taken place in the manners of the people.[17]

The success of the Cherokees proves that the Indians are capable of civilization, but it does not prove that they will succeed in it. This difficulty which the Indians find in submitting to civilization proceeds from the influence of a general cause, which it is almost impossible for them to escape. An attentive survey of history demonstrates that, in general, barbarous nations have raised themselves to civilization by degrees and by their own efforts. Whenever they have derived knowledge from a foreign people, they have stood toward it in the relation of conquerors, and not of a conquered nation. When the conquered nation is enlightened, and the conquerors are half savage, as in the case of the invasion of Rome by the Northern nations or that of China by the Mongols, the power which victory bestows upon the barbarian is sufficient to keep up his importance among civilized men, and permit him to rank as their equal, until he becomes their rival: the one has might on his side, the other has intelligence; the former admires the knowledge and the arts of the conquered, the latter envies the power of the conquerors. The barbarians at length admit civilized man into their palaces, and he in turn opens his schools to the barbarians. But when the side on which the physical force lies also possesses an intellectual preponderance, the conquered party seldom become civilized; it retreats, or is destroyed. It may therefore be said, in a general way, that savages go forth in arms to seek knowledge, but that they do not receive it when it comes to them.

If the Indian tribes which now inhabit the heart of the continent could summon up energy enough to attempt to civilize themselves, they might possibly succeed. Superior already to the barbarous nations which surround them, they would gradually gain strength and experience, and when the Europeans should appear upon their borders, they would be in a state, if not to maintain their in-

dependence, at least to assert their right to the soil, and to incorporate themselves with the conquerors. But it is the misfortune of Indians to be brought into contact with a civilized people, which is also (it must be owned) the most avaricious nation on the globe, while they are still semi-barbarian: to find despots in their instructors, and to receive knowledge from the hand of oppression. Living in the freedom of the woods, the North American Indian was destitute, but he had no feeling of inferiority toward any one; as soon, however, as he desires to penetrate into the social scale of the Whites, he takes the lowest rank in society, for he enters, ignorant and poor, within the pale of science and wealth. After having led a life of agitation, beset with evils and dangers, but at the same time filled with proud emotions,[18] he is obliged to submit to a wearisome, obscure, and degraded state; and to gain the bread which nourishes him by hard and ignoble labour; such are in his eyes the only results of which civilization can boast: and even this much he is not sure to obtain.

When the Indians undertake to imitate their European neighbours, and to till the earth like the settlers, they are immediately exposed to a very formidable competition. The white man is skilled in the craft of agriculture; the Indian is a rough beginner in an art with which he is unacquainted. The former reaps abundant crops without difficulty, the latter meets with a thousand obstacles in raising the fruits of the earth.

The European is placed among a population whose wants he knows and partakes. The savage is isolated in the midst of a hostile people, with whose manners, language, and laws he is imperfectly acquainted, but without whose assistance he can not live. He can only procure the materials of comfort by bartering his commodities against the goods of the European, for the assistance of his countrymen is wholly insufficient to supply his wants. When the Indian wishes to sell the produce of his labour, he can not always meet with a purchaser, while the European readily finds a market; and the former can only

produce at a considerable cost that which the latter vends at a very low rate. Thus the Indian has no sooner escaped those evils to which barbarous nations are exposed, than he is subjected to the still greater miseries of civilized communities; and he finds it scarcely less difficult to live in the midst of our abundance than in the depth of his own wilderness.

He has not yet lost the habits of his erratic life; the traditions of his fathers and his passion for the chase are still alive within him. The wild enjoyments which formerly animated him in the woods, painfully excite his troubled imagination; and his former privations appear to be less keen, his former perils less appalling. He contrasts the independence which he possessed among his equals with the servile position which he occupies in civilized society. On the other hand, the solitudes which were so long his free home are still at hand; a few hours' march will bring him back to them once more. The Whites offer him a sum, which seems to him to be considerable, for the ground which he has begun to clear. This money of the Europeans may possibly furnish him with the means of a happy and peaceful subsistence in remoter regions; and he quits the plough, resumes his native arms, and returns to the wilderness forever.[19] The condition of the Creeks and Cherokees, to which I have already alluded, sufficiently corroborates the truth of this deplorable picture.

The Indians, in the little which they have done, have unquestionably displayed as much natural genius as the peoples of Europe in their most important designs; but nations as well as men require time to learn whatever may be their intelligence and their zeal. While the savages were engaged in the work of civilization, the Europeans continued to surround them on every side, and to confine them within narrower limits; the two races gradually met, and they are now in immediate juxtaposition to each other. The Indian is already superior to his barbarous parent, but he is still very far below his white neighbour.

With their resources and acquired knowledge, the Europeans soon appropriated to themselves most of the advantages which the natives might have derived from the possession of the soil; they have settled in the country, they have purchased land at a very low rate or have occupied it by force, and the Indians have been ruined by a competition which they had not the means of resisting. They were isolated in their own country, and their race only constituted a colony of troublesome aliens in the midst of a numerous and domineering people.[20]

Washington said in one of his messages to Congress, "We are more enlightened and more powerful than the Indian nations, we are therefore bound in honour to treat them with kindness and even with generosity." But this virtuous and high-minded policy has not been followed. The rapacity of the settlers is usually backed by the tyranny of the Government. Although the Cherokees and the Creeks are established upon the territory which they inhabited before the settlement of the Europeans, and although the Americans have frequently treated with them as with foreign nations, the surrounding States have not consented to acknowledge them as independent peoples, and attempts have been made to subject these children of the woods to Anglo-American magistrates, laws, and customs.[21] Destitution had driven these unfortunate Indians to civilization, and oppression now drives them back to their former condition: many of them abandon the soil which they had begun to clear, and return to their savage course of life.

If we consider the tyrannical measures which have been adopted by the Legislatures of the Southern States, the conduct of their Governors, and the decrees of their courts of justice, we shall be convinced that the entire expulsion of the Indians is the final result to which the efforts of their policy are directed. The Americans of that part of the Union look with jealousy upon the Aborigines,[22] they are aware that these tribes have not yet lost the traditions of savage life, and before civilization has permanently fixed

them to the soil, it is intended to force them to recede by reducing them to despair. The Creeks and Cherokees, oppressed by the several States, have appealed to the central Government, which is by no means insensible to their misfortunes, and is sincerely desirous of saving the remnant of the natives, and of maintaining them in the free possession of that territory, which the Union is pledged to respect.[23] But the several States oppose so formidable a resistance to the execution of this design, that the Government is obliged to consent to the extirpation of a few barbarous tribes in order not to endanger the safety of the American Union.

But the Federal Government, which is not able to protect the Indians, would fain mitigate the hardships of their lot; and, with this intention, proposals have been made to transport them into more remote regions at the public cost.

Between the thirty-third and thirty-seventh degrees of north latitude lies a vast tract of country, which has taken the name of Arkansas, from the principal river that waters its extent. It is bounded on the one side by the confines of Mexico, on the other by the Mississippi. Numberless streams cross it in every direction; the climate is mild, and the soil productive, but it is only inhabited by a few wandering hordes of savages. The Government of the Union wishes to transport the broken remnants of the indigenous population of the South to the portion of this country which is nearest to Mexico, and at a great distance from the American settlements.

We were assured, toward the end of the year 1831, that ten thousand Indians had already gone down to the shores of the Arkansas; and fresh detachments were constantly following them; but Congress has been unable to excite a unanimous determination in those whom it is disposed to protect. Some, indeed, are willing to quit the seat of oppression, but the most enlightened members of the community refuse to abandon their recent dwellings and their springing crops; they are of opinion that the work of

civilization, once interrupted, will never be resumed; they fear that those domestic habits which have been so recently contracted may be irrevocably lost in the midst of a country which is still barbarous, and where nothing is prepared for the subsistence of an agricultural people; they know that their entrance into those wilds will be opposed by inimical hordes, and that they have lost the energy of barbarians, without acquiring the resources of civilization to resist their attacks. Moreover, the Indians readily discover that the settlement which is proposed to them is merely a temporary expedient. Who can assure them that they will at length be allowed to dwell in peace in their new retreat? The United States pledge themselves to the observance of the obligation; but the territory which they at present occupy was formerly secured to them by the most solemn oaths of Anglo-American faith.[24] The American Government does not indeed rob them of their lands, but it allows perpetual incursions to be made on them. In a few years the same white population which now flocks around them will track them to the solitudes of the Arkansas; they will then be exposed to the same evils without the same remedies, and as the limits of the earth will at last fail them, their only refuge is the grave.

The Union treats the Indians with less cupidity and rigour than the policy of the several States, but the two Governments are alike destitute of good faith. The States extend what they are pleased to term the benefits of their laws to the Indians, with a belief that the tribes will recede rather than submit; and the central Government, which promises a permanent refuge to these unhappy beings, is well aware of its inability to secure it to them.[25]

Thus the tyranny of the States obliges the savages to retire; the Union, by its promises and resources, facilitates their retreat; and these measures tend to precisely the same end.[26] "By the will of our Father in Heaven, the Governor of the whole world," said the Cherokees in their petition to Congress,[27] "the red man of America has become small, and the white man great and renowned. When

the ancestors of the people of these United States first came to the shores of America they found the red man strong: though he was ignorant and savage, yet he received them kindly, and gave them dry land to rest their weary feet. They met in peace, and shook hands in token of friendship. Whatever the white man wanted and asked of the Indian, the latter willingly gave. At that time the Indian was the lord, and the white man the suppliant. But now the scene has changed. The strength of the red man has become weakness. As his neighbours increased in numbers his power became less and less, and now, of the many and powerful tribes who once covered these United States, only a few are to be seen—a few whom a sweeping pestilence has left. The northern tribes, who were once so numerous and powerful, are now nearly extinct. Thus it has happened to the red man of America. Shall we, who are remnants, share the same fate?

"The land on which we stand we have received as an inheritance from our fathers, who possessed it from time immemorial as a gift from our common Father in Heaven. They bequeathed it to us as their children, and we have sacredly kept it, as containing the remains of our beloved men. This right of inheritance we have never ceded nor ever forfeited. Permit us to ask what better right the people can have to a country than the right of inheritance and immemorial peaceable possession? We know it is said of late by the State of Georgia and by the Executive of the United States that we have forfeited this right; but we think this is said gratuitously. At what time have we made the forfeit? What great crime have we committed whereby we must forever be divested of our country and rights? Was it when we were hostile to the United States, and took part with the King of Great Britain, during the struggle for independence? If so, why was not this forfeiture declared in the first treaty of peace between the United States and our beloved men? Why was not such an article as the following inserted in the treaty: 'The United States give peace to the Cherokees, but, for the

part they took in the late war, declare them to be but tenants at will, to be removed when the convenience of the States, within whose chartered limits they live, shall require it'? That was the proper time to assume such a possession. But it was not thought of, nor would our forefathers have agreed to any treaty whose tendency was to deprive them of their rights and their country."

Such is the language of the Indians: their assertions are true, their forebodings inevitable. From whatever side we consider the destinies of the aborigines of North America, their calamities appear to be irremediable: if they continue barbarous, they are forced to retire; if they attempt to civilize their manners, the contact of a more civilized community subjects them to oppression and destitution. They perish if they continue to wander from waste to waste, and if they attempt to settle they still must perish; the assistance of Europeans is necessary to instruct them, but the approach of Europeans corrupts and repels them into savage life; they refuse to change their habits as long as their solitudes are their own, and it is too late to change them when they are constrained to submit.

The Spaniards pursued the Indians with blood-hounds, like wild beasts; they sacked the New World with no more temper or compassion than a city taken by storm; but destruction must cease, and frenzy be stayed; the remnant of the Indian population which had escaped the massacre mixed with its conquerors, and adopted in the end their religion and their manners.[28] The conduct of the Americans of the United States toward the aborigines is characterized, on the other hand, by a singular attachment to the formalities of law. Provided that the Indians retain their barbarous condition, the Americans take no part in their affairs; they treat them as independent nations, and do not possess themselves of their hunting grounds without a treaty of purchase; and if an Indian nation happens to be so encroached upon as to be unable to subsist upon its territory, they afford it brotherly assistance in trans-

porting it to a grave sufficiently remote from the land of its fathers.

The Spaniards were unable to exterminate the Indian race by those unparalleled atrocities which brand them with indelible shame, nor did they even succeed in wholly depriving it of its rights; but the Americans of the United States have accomplished this twofold purpose with singular felicity; tranquilly, legally, philanthropically, without shedding blood, and without violating a single great principle of morality in the eyes of the world.[29] It is impossible to destroy men with more respect for the laws of humanity.

The Indians will perish in the same isolated condition in which they have lived; but the destiny of the negroes is in some measure interwoven with that of the Europeans. These two races are attached to each other without intermingling, and they are alike unable entirely to separate or to combine. The most formidable of all the ills which threaten the future existence of the Union arises from the presence of a black population upon its territory; and in contemplating the cause of the present embarrassments or of the future dangers of the United States, the observer is invariably led to consider this as a primary fact.

The permanent evils to which mankind is subjected are usually produced by the vehement or the increasing efforts of men; but there is one calamity which penetrated furtively into the world, and which was at first scarcely distinguishable amid the ordinary abuses of power; it originated with an individual whose name history has not preserved; it was wafted like some accursed germ upon a portion of the soil, but it afterward nurtured itself, grew without effort, and spread naturally with the society to which it belongs. I need scarcely add that this calamity is slavery. Christianity suppressed slavery, but the Christians of the sixteenth century re-established it—as an exception, indeed, to their social system, and restricted to one of the races of mankind; but the wound thus inflicted upon hu-

manity, though less extensive, was at the same time rendered far more difficult of cure.

It is important to make an accurate distinction between slavery itself and its consequences. The immediate evils which are produced by slavery were very nearly the same in antiquity as they are among the moderns; but the consequences of these evils were different. The slave, among the ancients, belonged to the same race as his master, and he was often the superior of the two in education [30] and instruction. Freedom was the only distinction between them; and when freedom was conferred they were easily confounded together. The ancients, then, had a very simple means of avoiding slavery and its evil consequences, which was that of affranchisement; and they succeeded as soon as they adopted this measure generally. Not but, in ancient States, the vestiges of servitude subsisted for some time after servitude itself was abolished. There is a natural prejudice which prompts men to despise whomsoever has been their inferior long after he is become their equal; and the real inequality which is produced by fortune or by law is always succeeded by an imaginary inequality which is implanted in the manners of the people. Nevertheless, this secondary consequence of slavery was limited to a certain term among the ancients, for the freedman bore so entire a resemblance to those born free that it soon became impossible to distinguish him from among them.

The greatest difficulty in antiquity was that of altering the law; among the moderns it is that of altering the manners; and, as far as we are concerned, the real obstacles begin where those of the ancients left off. This arises from the circumstance that, among the moderns, the abstract and transient fact of slavery is fatally united to the physical and permanent fact of colour. The tradition of slavery dishonours the race, and the peculiarity of the race perpetuates the tradition of slavery. No African has ever voluntarily emigrated to the shores of the New World; whence it must be inferred that all the blacks who are now to be

found in that hemisphere are either slaves or freedmen. Thus the negro transmits the eternal mark of his ignominy to all his descendants; and although the law may abolish slavery, God alone can obliterate the traces of its existence.

The modern slave differs from his master not only in his condition, but in his origin. You may set the negro free, but you can not make him otherwise than an alien to the European. Nor is this all; we scarcely acknowledge the common features of mankind in this child of debasement whom slavery has brought among us. His physiognomy is to our eyes hideous, his understanding weak, his tastes low; and we are almost inclined to look upon him as a being intermediate between man and the brutes.[31] The moderns, then, after they have abolished slavery, have three prejudices to contend against, which are less easy to attack, and far less easy to conquer, than the mere fact of servitude: the prejudice of the master, the prejudice of the race, and the prejudice of colour.

It is difficult for us, who have had the good fortune to be born among men like ourselves by nature, and equal to ourselves by law, to conceive the irreconcilable differences which separate the negro from the European in America. But we may derive some faint notion of them from analogy. France was formerly a country in which numerous distinctions of rank existed, that had been created by the legislation. Nothing can be more fictitious than a purely legal inferiority; nothing more contrary to the instinct of mankind than these permanent divisions which had been established between beings evidently similar. Nevertheless, these divisions subsisted for ages; they still subsist in many places; and on all sides they have left imaginary vestiges, which time alone can efface. If it be so difficult to root out an inequality which solely originates in the law, how are those distinctions to be destroyed which seem to be based upon the immutable laws of Nature herself? When I remember the extreme difficulty with which aristocratic bodies, of whatever nature they may be,

are commingled with the mass of the people; and the exceeding care which they take to preserve the ideal boundaries of their caste inviolate, I despair of seeing an aristocracy disappear which is founded upon visible and indelible signs. Those who hope that the Europeans will ever mix with the negroes appear to me to delude themselves; and I am not led to any such conclusion by my own reason or by the evidence of facts.

Hitherto, wherever the whites have been the most powerful, they have maintained the blacks in a subordinate or a servile position; wherever the negroes have been strongest they have destroyed the whites; such has been the only retribution which has ever taken place between the two races.

I see that in a certain portion of the territory of the United States at the present day the legal barrier which separated the two races is tending to fall away, but not that which exists in the manners of the country; slavery recedes, but the prejudice to which it has given birth remains stationary. Whosoever has inhabited the United States must have perceived that in those parts of the Union in which the negroes are no longer slaves, they have in nowise drawn nearer to the whites. On the contrary, the prejudice of the race appears to be stronger in the States which have abolished slavery than in those where it still exists; and nowhere is it so intolerant as in those States where servitude never has been known.

It is true that in the North of the Union marriages may be legally contracted between negroes and whites; but public opinion would stigmatize a man who should connect himself with a negress as infamous, and it would be difficult to meet with a single instance of such a union. The electoral franchise has been conferred upon the negroes in almost all the States in which slavery has been abolished; but if they come forward to vote, their lives are in danger. If oppressed, they may bring an action at law, but they will find none but whites among their judges; and although they may legally serve as jurors, prejudice

repulses them from that office. The same schools do not receive the child of the black and of the European. In the theatres, gold can not procure a seat for the servile race beside their former masters; in the hospitals they lie apart; and although they are allowed to invoke the same Divinity as the whites, it must be at a different altar, and in their own churches with their own clergy. The gates of Heaven are not closed against these unhappy beings; but their inferiority is continued to the very confines of the other world; when the negro is defunct, his bones are cast aside, and the distinction of condition prevails even in the equality of death. The negro is free, but he can share neither the rights, nor the pleasures, nor the labour, nor the afflictions, nor the tomb of him whose equal he has been declared to be; and he can not meet him upon fair terms in life or in death.

In the South, where slavery still exists, the negroes are less carefully kept apart; they sometimes share the labour and the recreations of the whites; the whites consent to intermix with them to a certain extent, and although the legislation treats them more harshly, the habits of the people are more tolerant and compassionate. In the South the master is not afraid to raise his slave to his own standing, because he knows that he can in a moment reduce him to the dust at pleasure. In the North the white no longer distinctly perceives the barrier which separates him from the degraded race, and he shuns the negro with the more pertinacity, since he fears lest they should some day be confounded together.

Among the Americans of the South, Nature sometimes reasserts her rights, and restores a transient equality between the blacks and the whites; but in the North pride restrains the most imperious of human passions. The American of the Northern States would perhaps allow the negress to share his licentious pleasures if the laws of his country did not declare that she may aspire to be the legitimate partner of his bed; but he recoils with horror from her who might become his wife.

Thus it is, in the United States, that the prejudice which repels the negroes seems to increase in proportion as they are emancipated, and inequality is sanctioned by the manners while it is effaced from the laws of the country. But if the relative position of the two races which inhabit the United States is such as I have described, it may be asked why the Americans have abolished slavery in the North of the Union, why they maintain it in the South, and why they aggravate its hardships there? The answer is easily given. It is not for the good of the negroes, but for that of the whites, that measures are taken to abolish slavery in the United States.

The first negroes were imported into Virginia about the year 1621.[32] In America, therefore, as well as in the rest of the globe, slavery originated in the South. Thence it spread from one settlement to another; but the number of slaves diminished toward the Northern States, and the negro population was always very limited in New England.[33]

A century had scarcely elapsed since the foundation of the colonies, when the attention of the planters was struck by the extraordinary fact that the provinces which were comparatively destitute of slaves increased in population, in wealth, and in prosperity more rapidly than those which contained the greatest number of negroes. In the former, however, the inhabitants were obliged to cultivate the soil themselves, or by hired labourers; in the latter they were furnished with hands for which they paid no wages; yet although labour and expense were on the one side, and ease with economy on the other, the former were in possession of the most advantageous system. This consequence seemed to be the more difficult to explain, since the settlers, who all belonged to the same European race, had the same habits, the same civilization, the same laws, and their shades of difference were extremely slight.

Time, however, continued to advance, and the Anglo-Americans, spreading beyond the coasts of the Atlantic Ocean, penetrated farther and farther into the solitudes

of the West; they met with a new soil and an unwonted climate; the obstacles which opposed them were of the most various character; their races intermingled, the inhabitants of the South went up toward the North, those of the North descended to the South; but in the midst of all these causes the same result occurred at every step, and in general the colonies in which there were no slaves became more populous and more rich than those in which slavery flourished. The more progress was made, the more was it shown that slavery, which is so cruel to the slave, is prejudicial to the master.

But this truth was most satisfactorily demonstrated when civilization reached the banks of the Ohio. The stream which the Indians had distinguished by the name of Ohio, or Beautiful River, waters one of the most magnificent valleys which ever has been made the abode of man. Undulating lands extend upon both shores of the Ohio, whose soil affords inexhaustible treasures to the labourer; on either bank the air is wholesome and the climate mild, and each of them forms the extreme frontier of a vast State: that which follows the numerous windings of the Ohio upon the left is called Kentucky, that upon the right bears the name of the river. These two States only differ in a single respect; Kentucky has admitted slavery, but the State of Ohio has prohibited the existence of slaves within its borders.[34]

Thus the traveller who floats down the current of the Ohio to the spot where that river falls into the Mississippi may be said to sail between liberty and servitude; and a transient inspection of the surrounding objects will convince him as to which of the two is most favourable to mankind. Upon the left bank of the stream the population is rare; from time to time one descries a troop of slaves loitering in the half-desert fields; the primeval forest recurs at every turn; society seems to be asleep, man to be idle, and nature alone offers a scene of activity and of life. From the right bank, on the contrary, a confused hum is heard which proclaims the presence of industry;

the fields are covered with abundant harvests, the elegance of the dwellings announces the taste and activity of the labourer, and man appears to be in the enjoyment of that wealth and contentment which is the reward of labour.[35]

The State of Kentucky was founded in 1775, the State of Ohio only twelve years later; but twelve years are more in America than half a century in Europe, and, at the present day, the population of Ohio exceeds that of Kentucky by two hundred and fifty thousand souls.[36] These opposite consequences of slavery and freedom may readily be understood, and they suffice to explain many of the differences which we remark between the civilization of antiquity and that of our own time.

Upon the left bank of the Ohio labour is confounded with the idea of slavery, upon the right bank it is identified with that of prosperity and improvement; on the one side it is degraded, on the other it is honoured; on the former territory no white labourers can be found, for they would be afraid of assimilating themselves to the negroes; on the latter no one is idle, for the white population extends its activity and its intelligence to every kind of employment. Thus the men whose task it is to cultivate the rich soil of Kentucky are ignorant and lukewarm; while those who are active and enlightened either do nothing or pass over into the State of Ohio, where they may work without dishonour.

It is true that in Kentucky the planters are not obliged to pay wages to the slaves whom they employ; but they derive small profits from their labour, while the wages paid to free workmen would be returned with interest in the value of their services. The free workman is paid, but he does his work quicker than the slave, and rapidity of execution is one of the great elements of economy. The white sells his services, but they are only purchased at the times at which they may be useful; the black can claim no remuneration for his toil, but the expense of his maintenance is perpetual; he must be supported in his old age as well as in the prime of manhood, in his profitless infancy as well

as in the productive years of youth. Payment must equally be made in order to obtain the services of either class of men: the free workman receives his wages in money, the slave in education, in food, in care, and in clothing. The money which a master spends in the maintenance of his slaves goes gradually and in detail, so that it is scarcely perceived; the salary of the free workman is paid in a round sum, which appears only to enrich the individual who receives it, but in the end the slave has cost more than the free servant, and his labour is less productive.[37]

The influence of slavery extends still further; it affects the character of the master, and imparts a peculiar tendency to his ideas and his tastes. Upon both banks of the Ohio the character of the inhabitants is enterprising and energetic; but this vigour is very differently exercised in the two States. The white inhabitant of Ohio, who is obliged to subsist by his own exertions, regards temporal prosperity as the principal aim of his existence; and as the country which he occupies presents inexhaustible resources to his industry and ever-varying lures to his activity, his acquisitive ardour surpasses the ordinary limits of human cupidity; he is tormented by the desire of wealth, and he boldly enters upon every path which fortune opens to him; he becomes a sailor, a pioneer, an artisan, or a labourer with the same indifference, and he supports, with equal constancy, the fatigues and the dangers incidental to these various professions; the resources of his intelligence are astonishing, and his avidity in the pursuit of gain amounts to a species of heroism.

But the Kentuckian scorns not only labour, but all the undertakings which labour promotes; as he lives in an idle independence, his tastes are those of an idle man; money loses a portion of its value in his eyes; he covets wealth much less than pleasure and excitement; and the energy which his neighbour devotes to gain turns with him to a passionate love of field sports and military exercises; he delights in violent bodily exertion, he is familiar with the use of arms, and is accustomed from a very early age

to expose his life in single combat. Thus slavery not only prevents the whites from becoming opulent, but even from desiring to become so.

As the same causes have been continually producing opposite effects for the last two centuries in the British colonies of North America, they have established a very striking difference between the commercial capacity of the inhabitants of the South and those of the North. At the present day it is only the Northern States that are in possession of shipping, manufactures, railroads, and canals. This difference is perceptible not only in comparing the North with the South, but in comparing the several Southern States. Almost all the individuals who carry on commercial operations, or who endeavour to turn slave-labour to account in the most Southern districts of the Union, have emigrated from the North. The natives of the Northern States are constantly spreading over that portion of the American territory where they have less to fear from competition; they discover resources there which escaped the notice of the inhabitants; and, as they comply with a system that they do not approve, they succeed in turning it to better advantage than those who first founded and who still maintain it.

Were I inclined to continue this parallel, I could easily prove that almost all the differences which may be remarked between the characters of the Americans in the Southern and in the Northern States have originated in slavery; but this would divert me from my subject, and my present intention is not to point out all the consequences of servitude, but those effects which it has produced upon the prosperity of the countries which have admitted it.

The influence of slavery upon the production of wealth must have been very imperfectly known in antiquity, as slavery then obtained throughout the civilized world; and the nations which were unacquainted with it were barbarous. And, indeed, Christianity only abolished slavery by advocating the claims of the slave; at the present time

it may be attacked in the name of the master, and, upon this point, interest is reconciled with morality.

As these truths became apparent in the United States, slavery receded before the progress of experience. Servitude had begun in the South, and had thence spread toward the North; but it is now retiring. Freedom, which started from the North, now descends uninterruptedly toward the South. Among the great States, Pennsylvania now constitutes the extreme limit of slavery to the North: but even within those limits the slave system is shaken: Maryland, which is immediately below Pennsylvania, is preparing for its abolition; and Virginia, which comes next to Maryland, is already discussing its utility and its dangers.[38]

No great change takes place in human institutions without involving among its causes the law of inheritance. When the law of primogeniture obtained in the South, each family was represented by a wealthy individual, who was neither compelled nor induced to labour; and he was surrounded, as by parasitic plants, by the other members of his family who were then excluded by law from sharing the common inheritance, and who led the same kind of life as himself. The very same thing then occurred in all the families of the South as still happens in the wealthy families of some countries in Europe, namely, that the younger sons remain in the same state of idleness as their elder brother, without being as rich as he is. This identical result seems to be produced in Europe and in America by wholly analogous causes. In the South of the United States the whole race of whites formed an aristocratic body, which was headed by a certain number of privileged individuals, whose wealth was permanent, and whose leisure was hereditary. These leaders of the American nobility kept alive the traditional prejudices of the white race in the body of which they were the representatives, and maintained the honour of inactive life. This aristocracy contained many who were poor, but none who would work; its members preferred want to labour, consequently no

competition was set on foot against negro labourers and slaves, and, whatever opinion might be entertained as to the utility of their efforts, it was indispensable to employ them, since there was no one else to work.

No sooner was the law of primogeniture abolished than fortunes began to diminish, and all the families of the country were simultaneously reduced to a state in which labour became necessary to procure the means of subsistence: several of them have since entirely disappeared, and all of them learned to look forward to the time at which it would be necessary for every one to provide for his own wants. Wealthy individuals are still to be met with, but they no longer constitute a compact and hereditary body, nor have they been able to adopt a line of conduct in which they could persevere, and which they could infuse into all ranks of society. The prejudice which stigmatized labour was in the first place abandoned by common consent; the number of needy men was increased, and the needy were allowed to gain a laborious subsistence without blushing for their exertions. Thus one of the most immediate consequences of the partible quality of estates has been to create a class of free labourers. As soon as a competition was set on foot between the free labourer and the slave, the inferiority of the latter became manifest, and slavery was attacked in its fundamental principle, which is the interest of the master.

As slavery recedes, the black population follows its retrograde course, and returns with it toward those tropical regions from which it originally came. However singular this fact may at first appear to be, it may readily be explained. Although the Americans abolish the principle of slavery, they do not set their slaves free. To illustrate this remark, I will quote the example of the State of New York. In 1788 the State of New York prohibited the sale of slaves within its limits, which was an indirect method of prohibiting the importation of blacks. Thenceforward the number of negroes could only increase according to the ratio of the natural increase of popula-

tion. But eight years later a more decisive measure was taken, and it was enacted that all children born of slave parents after the 4th of July, 1799, should be free. No increase could then take place, and although slaves still existed, slavery might be said to be abolished.

From the time at which a Northern State prohibited the importation of slaves, no slaves were brought from the South to be sold in its markets. On the other hand, as the sale of slaves was forbidden in that State, an owner was no longer able to get rid of his slave (who thus became a burdensome possession) otherwise than by transporting him to the South. But when a Northern State declared that the son of the slave should be born free, the slave lost a large portion of his market value, since his posterity was no longer included in the bargain, and the owner had then a strong interest in transporting him to the South. Thus the same law prevents the slaves of the South from coming to the Northern States, and drives those of the North to the South.

The want of free hands is felt in a State in proportion as the number of slaves decreases. But in proportion as labour is performed by free hands, slave labour becomes less productive; and the slave is then a useless or onerous possession, whom it is important to export to those Southern States where the same competition is not to be feared. Thus the abolition of slavery does not set the slave free, but it merely transfers him from one master to another, and from the North to the South.

The emancipated negroes, and those born after the abolition of slavery, do not, indeed, migrate from the North to the South; but their situation with regard to the Europeans is not unlike that of the aborigines of America; they remain half civilized, and deprived of their rights in the midst of a population which is far superior to them in wealth and in knowledge; where they are exposed to the tyranny of the laws [39] and the intolerance of the people. On some accounts they are still more to be pitied than the Indians, since they are haunted by the

reminiscence of slavery, and they can not claim possession of a single portion of the soil: many of them perish miserably,[40] and the rest congregate in the great towns, where they perform the meanest offices, and lead a wretched and precarious existence.

But even if the number of negroes continued to increase as rapidly as when they were still in a state of slavery, as the number of whites augments with twofold rapidity since the abolition of slavery, the blacks would soon be, as it were, lost in the midst of a strange population.

A district which is cultivated by slaves is in general more scantily peopled than a district cultivated by free labour: moreover, America is still a new country, and a State is therefore not half peopled at the time when it abolishes slavery. No sooner is an end put to slavery than the want of free labour is felt, and a crowd of enterprising adventurers immediately arrives from all parts of the country, who hasten to profit by the fresh resources which are then opened to industry. The soil is soon divided among them, and a family of white settlers takes possession of each tract of country. Besides which, European emigration is exclusively directed to the free States; for what would be the fate of a poor emigrant who crosses the Atlantic in search of ease and happiness if he were to land in a country where labour is stigmatized as degrading?

Thus the white population grows by its natural increase, and at the same time by the immense influx of emigrants; while the black population receives no emigrants, and is upon its decline. The proportion which existed between the two races is soon inverted. The negroes constitute a scanty remnant, a poor tribe of vagrants, which is lost in the midst of an immense people in full possession of the land; and the presence of the blacks is only marked by the injustice and the hardships of which they are the unhappy victims.

In several of the Western States the negro race never made its appearance, and in all the Northern States it is rapidly declining. Thus the great question of its future

condition is confined within a narrow circle, where it becomes less formidable, though not more easy of solution.

The more we descend toward the South, the more difficult does it become to abolish slavery with advantage: and this arises from several physical causes which it is important to point out.

The first of these causes is the climate; it is well known that in proportion as Europeans approach the tropics they suffer more from labour. Many of the Americans even assert that within a certain latitude the exertions which a negro can make without danger are fatal to them;[41] but I do not think that this opinion, which is so favourable to the indolence of the inhabitants of southern regions, is confirmed by experience. The southern parts of the Union are not hotter than the South of Italy and of Spain;[42] and it may be asked why the European can not work as well there as in the two latter countries. If slavery has been abolished in Italy and in Spain without causing the destruction of the masters, why should not the same thing take place in the Union? I can not believe that Nature has prohibited the Europeans in Georgia and the Floridas, under pain of death, from raising the means of subsistence from the soil, but their labour would unquestionably be more irksome and less productive[43] to them than to the inhabitants of New England. As the free workman thus loses a portion of his superiority over the slave in the Southern States, there are fewer inducements to abolish slavery.

All the plants of Europe grow in the northern parts of the Union; the South has special productions of its own. It has been observed that slave-labour is a very expensive method of cultivating corn. The farmer of corn land in a country where slavery is unknown habitually retains a small number of labourers in his service, and at seed-time and harvest he hires several additional hands, who only live at his cost for a short period. But the agriculturist in a slave State is obliged to keep a large number of slaves the whole year round, in order to sow his fields and to

gather in his crops, although their services are only required for a few weeks; but slaves are unable to wait till they are hired, and to subsist by their own labour in the meantime like free labourers; in order to have their services they must be bought. Slavery, independently of its general disadvantages, is therefore still more inapplicable to countries in which corn is cultivated than to those which produce crops of a different kind. The cultivation of tobacco, of cotton, and especially of the sugar-cane, demands, on the other hand, unremitting attention : and women and children are employed in it, whose services are of but little use in the cultivation of wheat. Thus slavery is naturally more fitted to the countries from which these productions are derived. Tobacco, cotton, and the sugar-cane are exclusively grown in the South, and they form one of the principal sources of the wealth of those States. If slavery were abolished, the inhabitants of the South would be constrained to adopt one of two alternatives: they must either change their system of cultivation, and then they would come into competition with the more active and more experienced inhabitants of the North; or, if they continued to cultivate the same produce without slave-labour, they would have to support the competition of the other States of the South, which might still retain their slaves. Thus, peculiar reasons for maintaining slavery exist in the South which do not operate in the North.

But there is yet another motive which is more cogent than all the others: the South might, indeed, rigorously speaking, abolish slavery; but how should it rid its territory of the black population? Slaves and slavery are driven from the North by the same law, but this twofold result can not be hoped for in the South.

The arguments which I have adduced to show that slavery is more natural and more advantageous in the South than in the North sufficiently prove that the number of slaves must be far greater in the former districts. It was to the southern settlements that the first Africans were brought, and it is there that the greatest number of

them have always been imported. As we advance toward the South, the prejudice which sanctions idleness increases in power. In the States nearest to the tropics there is not a single white labourer; the negroes are consequently much more numerous in the South than in the North. And, as I have already observed, this disproportion increases daily, since the negroes are transferred to one part of the Union as soon as slavery is abolished in the other. Thus the black population augments in the South, not only by its natural fecundity, but by the compulsory emigration of the negroes from the North; and the African race has causes of increase in the South very analogous to those which so powerfully accelerate the growth of the European race in the North.

In the State of Maine there is one negro in three hundred inhabitants; in Massachusetts, one in one hundred; in New York, two in one hundred; in Pennsylvania, three in the same number; in Maryland, thirty-four; in Virginia, forty-two; and lastly, in South Carolina,[44] fifty-five per cent. Such was the proportion of the black population to the whites in the year 1830. But this proportion is perpetually changing, as it constantly decreases in the North and augments in the South.

It is evident that the most Southern States of the Union can not abolish slavery without incurring very great dangers, which the North had no reason to apprehend when it emancipated its black population. We have already shown the system by which the Northern States secure the transition from slavery to freedom, by keeping the present generation in chains, and setting their descendants free; by this means the negroes are gradually introduced into society; and while the men who might abuse their freedom are kept in a state of servitude, those who are emancipated may learn the art of being free before they become their own masters. But it would be difficult to apply this method in the South. To declare that all the negroes born after a certain period shall be free is to introduce the principle and the notion of liberty into the

heart of slavery; the blacks whom the law thus maintains in a state of slavery from which their children are delivered, are astonished at so unequal a fate, and their astonishment is only the prelude to their impatience and irritation. Thenceforward slavery loses, in their eyes, that kind of moral power which it derived from time and habit; it is reduced to a mere palpable abuse of force. The Northern States had nothing to fear from the contrast, because in them the blacks were few in number, and the white population was very considerable. But if this faint dawn of freedom were to show two millions of men their true position, the oppressors would have reason to tremble. After having affranchised the children of their slaves, the Europeans of the Southern States would very shortly be obliged to extend the same benefit to the whole black population.

In the North, as I have already remarked, a twofold migration ensues upon the abolition of slavery, or even precedes that event when circumstances have rendered it probable: the slaves quit the country to be transported southward; and the whites of the Northern States, as well as the emigrants from Europe, hasten to fill up their place. But these two causes can not operate in the same manner in the Southern States. On the one hand, the mass of slaves is too great for any expectation of their ever being removed from the country to be entertained; and on the other hand, the Europeans and Anglo-Americans of the North are afraid to come to inhabit a country in which labour has not yet been reinstated in its rightful honours. Besides, they very justly look upon the States in which the proportion of the negroes equals or exceeds that of the whites, as exposed to very great dangers; and they refrain from turning their activity in that direction.

Thus the inhabitants of the South would not be able, like their Northern countrymen, to initiate the slaves gradually into a state of freedom by abolishing slavery; they have no means of perceptibly diminishing the black population, and they would remain unsupported to repress its

excesses. So that in the course of a few years a great people of free negroes would exist in the heart of a white nation of equal size.

The same abuses of power which still maintain slavery would then become the source of the most alarming perils which the white population of the South might have to apprehend. At the present time the descendants of the Europeans are the sole owners of the land; the absolute masters of all labour; and the only persons who are possessed of wealth, knowledge, and arms. The black is destitute of all these advantages, but he subsists without them because he is a slave. If he were free, and obliged to provide for his own subsistence, would it be possible for him to remain without these things and to support life? Or would not the very instruments of the present superiority of the white, while slavery exists, expose him to a thousand dangers if it were abolished?

As long as the negro remains a slave he may be kept in a condition not very far removed from that of the brutes; but, with his liberty, he can not but acquire a degree of instruction which will enable him to appreciate his misfortunes, and to discern a remedy for them. Moreover, there exists a singular principle of relative justice which is very firmly implanted in the human heart. Men are much more forcibly struck by those inequalities which exist within the circle of the same class than with those which may be remarked between different classes. It is more easy for them to admit slavery than to allow several millions of citizens to exist under a load of eternal infamy and hereditary wretchedness. In the North the population of freed negroes feels these hardships and resents these indignities; but its numbers and its powers are small, while in the South it would be numerous and strong.

As soon as it is admitted that the whites and the emancipated blacks are placed upon the same territory in the situation of two alien communities, it will readily be understood that there are but two alternatives for the future; the negroes and the whites must either wholly part or

wholly mingle. I have already expressed the conviction that I entertain as to the latter event.[45] I do not imagine that the white and black races will ever live in any country upon an equal footing. But I believe the difficulty to be still greater in the United States than elsewhere. An isolated individual may surmount the prejudices of religion, of his country, or of his race, and if this individual is a king he may effect surprising changes in society; but a whole people can not rise, as it were, above itself. A despot who should subject the Americans and their former slaves to the same yoke might perhaps succeed in commingling their races; but as long as the American democracy remains at the head of affairs, no one will undertake so difficult a task; and it may be foreseen that the freer the white population of the United States becomes, the more isolated will it remain.[46]

I have previously observed that the mixed race is the true bond of union between the Europeans and the Indians; just so the mulattoes are the true means of transition between the white and the negro; so that wherever mulattoes abound, the intermixture of the two races is not impossible. In some parts of America the European and the negro races are so crossed by one another that it is rare to meet with a man who is entirely black or entirely white: when they are arrived at this point, the two races may really be said to be combined; or rather to have been absorbed in a third race, which is connected with both without being identical with either.

Of all the Europeans the English are those who have mixed least with the negroes. More mulattoes are to be seen in the South of the Union than in the North, but still they are infinitely more scarce than in any other European colony: mulattoes are by no means numerous in the United States; they have no force peculiar to themselves, and when quarrels originating in differences of colour take place, they generally side with the whites; just as the lackeys of the great in Europe assume the contemptuous airs of nobility to the lower orders.

The pride of origin, which is natural to the English, is singularly augmented by the personal pride which democratic liberty fosters among the Americans: the white citizen of the United States is proud of his race, and proud of himself. But if the whites and the negroes do not intermingle in the North of the Union, how should they mix in the South? Can it be supposed for an instant that an American of the Southern States, placed, as he must forever be, between the white man with all his physical and moral superiority and the negro, will ever think of preferring the latter? The Americans of the Southern States have two powerful passions which will always keep them aloof: the first is the fear of being assimilated to the negroes, their former slaves; and the second the dread of sinking below the whites, their neighbours.

If I were called upon to predict what will probably occur at some future time, I should say that the abolition of slavery in the South will, in the common course of things, increase the repugnance of the white population for the men of colour. I found this opinion upon the analogous observation which I already had occasion to make in the North. I there remarked that the white inhabitants of the North avoid the negroes with increasing care, in proportion as the legal barriers of separation are removed by the legislature; and why should not the same result take place in the South? In the North, the whites are deterred from intermingling with the blacks by the fear of an imaginary danger; in the South, where the danger would be real, I can not imagine that the fear would be less general.

If, on the one hand, it be admitted (and the fact is unquestionable) that the coloured population perpetually accumulates in the extreme South, and that it increases more rapidly than that of the whites; and if, on the other hand, it be allowed that it is impossible to foresee a time at which the whites and the blacks will be so intermingled as to derive the same benefits from society; must it not be inferred that the blacks and the whites will, sooner or later, come to open strife in the Southern States of the

Union? But if it be asked what the issue of the struggle is likely to be, it will readily be understood that we are here left to form a very vague surmise of the truth. The human mind may succeed in tracing a wide circle, as it were, which includes the course of future events; but within that circle a thousand various chances and circumstances may direct it in as many different ways; and in every picture of the future there is a dim spot, which the eye of the understanding can not penetrate. It appears, however, to be extremely probable that in the West Indian Islands the white race is destined to be subdued, and the black population to share the same fate upon the continent.

In the West Indian Islands the white planters are surrounded by an immense black population; on the continent, the blacks are placed between the ocean and an innumerable people, which already extends over them in a dense mass, from the icy confines of Canada to the frontiers of Virginia, and from the banks of the Missouri to the shores of the Atlantic. If the white citizens of North America remain united, it can not be supposed that the negroes will escape the destruction with which they are menaced; they must be subdued by want or by the sword. But the black population which is accumulated along the coast of the Gulf of Mexico has a chance of success if the American Union is dissolved when the struggle between the two races begins. If the Federal tie were broken, the citizens of the South would be wrong to rely upon any lasting succour from their Northern countrymen. The latter are well aware that the danger can never reach them; and unless they are constrained to march to the assistance of the South by a positive obligation, it may be foreseen that the sympathy of colour will be insufficient to stimulate their exertions.

Yet, at whatever period the strife may break out, the whites of the South, even if they are abandoned to their own resources, will enter the lists with an immense superiority of knowledge and of the means of warfare; but the blacks will have numerical strength and the energy

of despair upon their side; and these are powerful resources to men who have taken up arms. The fate of the white population of the Southern States will, perhaps, be similar to that of the Moors in Spain. After having occupied the land for centuries, it will perhaps be forced to retire to the country whence its ancestors came, and to abandon to the negroes the possession of a territory which Providence seems to have more peculiarly destined for them, since they can subsist and labour in it more easily than the whites.

The danger of a conflict between the white and the black inhabitants of the Southern States of the Union—a danger which, however remote it may be, is inevitable—perpetually haunts the imagination of the Americans. The inhabitants of the North make it a common topic of conversation, although they have no direct injury to fear from the struggle; but they vainly endeavour to devise some means of obviating the misfortunes which they foresee. In the Southern States the subject is not discussed: the planter does not allude to the future in conversing with strangers; the citizen does not communicate his apprehensions to his friends; he seeks to conceal them from himself; but there is something more alarming in the tacit forebodings of the South than in the clamorous fears of the Northern States.

This all-pervading disquietude has given birth to an undertaking which is but little known, but which may have the effect of changing the fate of a portion of the human race. From apprehension of the dangers which I have just been describing, a certain number of American citizens have formed a society for the purpose of exporting to the coast of Guinea, at their own expense, such free negroes as may be willing to escape from the oppression to which they are subject.[47] In 1820, the society to which I allude formed a settlement in Africa, upon the seventh degree of north latitude, which bears the name of Liberia. The most recent intelligence informs us that two thousand five hundred negroes are collected there; they have

introduced the democratic institutions of America into the country of their forefathers; and Liberia has a representative system of government, negro jurymen, negro magistrates, and negro priests; churches have been built, newspapers established, and, by a singular change in the vicissitudes of the world, white men are prohibited from sojourning within the settlement.[48]

This is, indeed, a strange caprice of fortune. Two hundred years have now elapsed since the inhabitants of Europe undertook to tear the negro from his family and his home, in order to transport him to the shores of North America; at the present day, the European settlers are engaged in sending back the descendants of those very negroes to the continent from which they were originally taken; and the barbarous Africans have been brought into contact with civilization in the midst of bondage, and have become acquainted with free political institutions in slavery. Up to the present time Africa has been closed against the arts and sciences of the whites; but the inventions of Europe will perhaps penetrate into those regions, now that they are introduced by Africans themselves. The settlement of Liberia is founded upon a lofty and a most fruitful idea; but whatever may be its results with regard to the continent of Africa, it can afford no remedy to the New World.

In twelve years the Colonization Society has transported two thousand five hundred negroes to Africa; in the same space of time about seven hundred thousand blacks were born in the United States. If the colony of Liberia were so situated as to be able to receive thousands of new inhabitants every year, and if the negroes were in a state to be sent thither with advantage; if the Union were to supply the society with annual subsidies,[49] and to transport the negroes to Africa in the vessels of the State, it would still be unable to counterpoise the natural increase of population among the blacks; and as it could not remove as many men in a year as are born upon its territory within the same space of time, it would fail in

suspending the growth of the evil which is daily increasing in the States.[50] The negro race will never leave those shores of the American continent to which it was brought by the passions and the vices of Europeans; and it will not disappear from the New World as long as it continues to exist. The inhabitants of the United States may retard the calamities which they apprehend, but they can not now destroy their efficient cause.

I am obliged to confess that I do not regard the abolition of slavery as a means of warding off the struggle of the two races in the United States. The negroes may long remain slaves without complaining; but if they are once raised to the level of free men, they will soon revolt at being deprived of all their civil rights; and as they can not become the equals of the whites, they will speedily declare themselves as enemies. In the North everything contributed to facilitate the emancipation of the slaves; and slavery was abolished, without placing the free negroes in a position which could become formidable, since their number was too small for them ever to claim the exercise of their rights. But such is not the case in the South. The question of slavery was a question of commerce and manufacture for the slave-owners in the North; for those of the South, it is a question of life and death. God forbid that I should seek to justify the principle of negro slavery, as has been done by some American writers! But I only observe that all the countries which formerly adopted that execrable principle are not equally able to abandon it at the present time.

When I contemplate the condition of the South, I can only discover two alternatives which may be adopted by the white inhabitants of those States: viz., either to emancipate the negroes, and to intermingle with them; or, remaining isolated from them, to keep them in a state of slavery as long as possible. All intermediate measures seem to me likely to terminate, and that shortly, in the most horrible of civil wars, and perhaps in the extirpation of one or other of the two races. Such is the view which

the Americans of the South take of the question, and they act consistently with it. As they are determined not to mingle with the negroes, they refuse to emancipate them.

Not that the inhabitants of the South regard slavery as necessary to the wealth of the planter, for on this point many of them agree with their Northern countrymen in freely admitting that slavery is prejudicial to their interest; but they are convinced that, however prejudicial it may be, they hold their lives upon no other tenure. The instruction which is now diffused in the South has convinced the inhabitants that slavery is injurious to the slave-owner, but it has also shown them, more clearly than before, that no means exist of getting rid of its bad consequences. Hence arises a singular contrast: the more the utility of slavery is contested, the more firmly is it established in the laws; and while the principle of servitude is gradually abolished in the North, that self-same principle gives rise to more and more rigorous consequences in the South.

The legislation of the Southern States with regard to slaves presents at the present day such unparalleled atrocities as suffice to show how radically the laws of humanity have been perverted, and to betray the desperate position of the community in which that legislation has been promulgated. The Americans of this portion of the Union have not, indeed, augmented the hardships of slavery; they have, on the contrary, bettered the physical condition of the slaves. The only means by which the ancients maintained slavery were fetters and death; the Americans of the South of the Union have discovered more intellectual securities for the duration of their power. They have employed their despotism and their violence against the human mind. In antiquity, precautions were taken to prevent the slave from breaking his chains; at the present day measures are adopted to deprive him even of the desire of freedom. The ancients kept the bodies of their slaves in bondage, but they placed no restraint upon the

mind and no check upon education; and they acted consistently with their established principle, since a natural termination of slavery then existed, and one day or other the slave might be set free, and become the equal of his master. But the Americans of the South, who do not admit that the negroes can ever be commingled with themselves, have forbidden them to be taught to read or to write, under severe penalties; and as they will not raise them to their own level, they sink them as nearly as possible to that of the brutes.

The hope of liberty had always been allowed to the slave to cheer the hardships of his condition. But the Americans of the South are well aware that emancipation can not but be dangerous, when the freed man can never be assimilated to his former master. To give a man his freedom, and to leave him in wretchedness and ignominy, is nothing less than to prepare a future chief for a revolt of the slaves. Moreover, it has long been remarked that the presence of a free negro vaguely agitates the minds of his less fortunate brethren, and conveys to them a dim notion of their rights. The Americans of the South have consequently taken measures to prevent slave-owners from emancipating their slaves in most cases; not, indeed, by a positive prohibition, but by subjecting that step to various forms which it is difficult to comply with.

I happened to meet with an old man, in the South of the Union, who had lived in illicit intercourse with one of his negresses, and had had several children by her, who were born the slaves of their father. He had, indeed, frequently thought of bequeathing to them at least their liberty; but years had elapsed without his being able to surmount the legal obstacles to their emancipation, and in the meanwhile his old age was come, and he was about to die. He pictured to himself his sons dragged from market to market, and passing from the authority of a parent to the rod of the stranger, until these horrid anticipations worked his expiring imagination into frenzy. When I saw him he was a prey to all the anguish of despair, and

he made me feel how awful is the retribution of Nature upon those who have broken her laws.

These evils are unquestionably great; but they are the necessary and foreseen consequence of the very principle of modern slavery. When the Europeans chose their slaves from a race differing from their own, which many of them considered as inferior to the other races of mankind, and which they all repelled with horror from any notion of intimate connection, they must have believed that slavery would last forever; since there is no intermediate state which can be durable between the excessive inequality produced by servitude and the complete equality which originates in independence. The Europeans did imperfectly feel this truth, but without acknowledging it even to themselves. Whenever they have had to do with negroes, their conduct either has been dictated by their interest and their pride, or by their compassion. They first violated every right of humanity by their treatment of the negro, and they afterward informed him that those rights were precious and inviolable. They affected to open their ranks to the slaves, but the negroes who attempted to penetrate into the community were driven back with scorn; and they have incautiously and involuntarily been led to admit of freedom instead of slavery, without having the courage to be wholly iniquitous, or wholly just.

If it be impossible to anticipate a period at which the Americans of the South will mingle their blood with that of the negroes, can they allow their slaves to become free without compromising their own security? And if they are obliged to keep that race in bondage in order to save their own families, may they not be excused for availing themselves of the means best adapted to that end? The events which are taking place in the Southern States of the Union appear to me to be at once the most horrible and the most natural results of slavery. When I see the order of Nature overthrown, and when I hear the cry of humanity in its vain struggle against the laws, my indigna-

tion does not light upon the men of our own time who are the instruments of these outrages; but I reserve my execration for those who, after a thousand years of freedom, brought back slavery into the world once more.

Whatever may be the efforts of the Americans of the South to maintain slavery, they will not always succeed. Slavery, which is now confined to a single tract of the civilized earth, which is attacked by Christianity as unjust, and by political economy as prejudicial; and which is now contrasted with democratic liberties and the information of our age, can not survive. By the choice of the master, or by the will of the slave, it will cease; and in either case great calamities may be expected to ensue. If liberty be refused to the negroes of the South, they will in the end seize it for themselves by force; if it be given, they will abuse it ere long.

NOTES

[1] The native of North America retains his opinions and the most insignificant of his habits with a degree of tenacity which has no parallel in history. For more than two hundred years the wandering tribes of North America have had daily intercourse with the whites, and they have never derived from them either a custom or an idea. Yet the Europeans have exercised a powerful influence over the savages; they have made them more licentious, but not more European. In the summer of 1831 I happened to be beyond Lake Michigan, at a place called Green Bay, which serves as the extreme frontier beyond the United States and the Indians on the northwestern side. Here I became acquainted with an American officer, Major H., who, after talking to me at length on the inflexibility of the Indian character, related the following fact: "I formerly knew a young Indian," said he, "who had been educated at a college in New England, where he had greatly distinguished himself, and had acquired the external appearance of a member of civilized society. When the war broke out between ourselves and the English in 1812, I saw this young man again; he was serving in our army, at the head of the warriors of his tribe, for the Indians were admitted among the ranks of the Americans, upon condition that they would abstain from their horrible custom of scalping their victims. On the evening of the battle of ——, C. came and sat himself down by the fire of our bivouac. I asked him what had been his fortune that day; he related his exploits; and growing warm and animated by the recollection of them, he concluded by suddenly opening the breast of his coat, saying, 'You must not betray me—see here!' And I actually beheld," said the major, "between his body and his shirt the skin and hair of an English head, still dripping with gore."

[2] In the thirteen original States there are only 6,273 Indians remaining. (See "Legislative Documents, 20th Congress," No. 117, p. 90.)

[3] Messrs. Clarke and Cass, in their "Report to Congress" the 4th of February, 1829, p. 23, expressed themselves thus: "The time when the Indians generally could supply themselves with food and clothing, without any of the articles of civilized life, has long since passed away. The more remote tribes, beyond the Mississippi, who live where immense herds of buffalo are yet to be found, and who follow those animals in their periodical migrations, could more easily than any others recur to the habits of their ancestors, and live without the white man or any of his manufactures. But the buffalo is constantly receding. The smaller animals—the bear, the deer, the beaver, the otter, the musk rat, etc.—principally minister to the comfort and support of the Indians; and these can not be taken without guns, ammunition, and traps. Among the northwestern Indians particularly the labour of supplying a family with food is excessive. Day after day is spent by the hunter without success, and during this interval the family must subsist upon bark or roots, or perish. Want and misery are around them and among them. Many die every winter from actual starvation."

The Indians will not live as Europeans live, and yet they can neither subsist without them, nor exactly after the fashion of their fathers. This is demonstrated by a fact which I likewise give upon official authority. Some Indians of a tribe on the banks of Lake Superior had killed a European; the American Government interdicted all traffic with the tribe to which the guilty parties belonged, until they were delivered up to justice. This measure had the desired effect.

[4] "Five years ago" (says Volney in his "Tableau des États-Unis," p. 370), "in going from Vincennes to Kaskaskia, a territory which now forms part of the State of Illinois, but which at the time I mention was completely wild (1797), you could not cross a prairie without seeing herds of from four to five hundred buffaloes. There are now none remaining; they swam across the Mississippi to escape from the hunters, and more particularly from the bells of the American cows."

[5] The truth of what I here advance may be easily proved by consulting the tabular statement of Indian tribes inhabiting the United States and their Territories. ("Legislative Documents, 20th Congress," No. 117, pp. 90–105.) It is there shown that the tribes in the centre of America are rapidly decreasing, although the Europeans are still at a considerable distance from them.

[6] "The Indians," say Messrs. Clarke and Cass in their "Report to Congress," p. 15, "are attached to their country by the same feelings which bind us to ours; and, besides, there are certain superstitious notions connected with the alienation of what the Great Spirit gave to their ancestors, which operate strongly upon the tribes who have made few or no cessions, but which are gradually weakened as our intercourse with them is extended. 'We will not sell the spot which contains the bones of our fathers,' is almost always the first answer to a proposition for a sale."

[7] See in the "Legislative Documents of Congress" (Doc. 117) the narrative of what takes place on these occasions. This curious pas-

sage is from the above-mentioned report, made to Congress by Messrs. Clarke and Cass in February, 1829. Mr. Cass is now the Secretary of War :

"The Indians," says the report, "reach the treaty-ground poor and almost naked. Large quantities of goods are taken there by the traders, and are seen and examined by the Indians. The women and children become importunate to have their wants supplied, and their influence is soon exerted to induce a sale. Their improvidence is habitual and unconquerable. The gratification of his immediate wants and desires is the ruling passion of an Indian. The expectation of future advantages seldom produces much effect. The experience of the past is lost, and the prospects of the future disregarded. It would be utterly hopeless to demand a cession of land, unless the means were at hand of gratifying their immediate wants ; and when their condition and circumstances are fairly considered, it ought not to surprise us that they are so anxious to relieve themselves."

[8] On May 19, 1830, Mr. Edward Everett affirmed before the House of Representatives that the Americans had already acquired by treaty, to the east and west of the Mississippi, 230,000,000 acres. In 1808 the Osages gave up 48,000,000 acres for an annual payment of 1,000 dollars. In 1818 the Quapaws yielded up 29,000,000 acres for 4,000 dollars. They reserved for themselves a territory of 1,000,000 acres for a hunting-ground. A solemn oath was taken that it should be respected ; but before long it was invaded like the rest.

Mr. Bell, in his "Report of the Committee on Indian Affairs," February 24, 1830, has these words : "To pay an Indian tribe what their ancient hunting-grounds are worth to them, after the game is fled or destroyed, as a mode of appropriating wild lands claimed by Indians, has been found more convenient, and certainly it is more agreeable to the forms of justice, as well as more merciful, than to assert the possession of them by the sword. Thus the practice of buying Indian titles is but the substitute which humanity and expediency have imposed, in place of the sword, in arriving at the actual enjoyment of property claimed by the right of discovery, and sanctioned by the natural superiority allowed to the claims of civilized communities over those of savage tribes. Up to the present time so invariable has been the operation of certain causes, first in diminishing the value of forest lands to the Indians, and, secondly, in disposing them to sell readily, that the plan of buying their right of occupancy has never threatened to retard, in any perceptible degree, the prosperity of any of the States." ("Legislative Documents, 21st Congress," No. 227, p. 6.)

[9] This seems, indeed, to be the opinion of almost all American statesmen. "Judging of the future by the past," says Mr. Cass, "we can not err in anticipating a progressive diminution of their numbers, and their eventual extinction, unless our border should become stationary, and they be removed beyond it, or unless some radical change should take place in the principles of our intercourse with them, which it is easier to hope for than to expect."

[10] Among other warlike enterprises, there was one of the Wampanoags and other confederate tribes, under Metacomet, in 1675, against the

colonists of New England; the English were also engaged in war in Virginia in 1622.

[11] See the "Histoire de la Nouvelle France," by Charlevoix, and the work entitled "Lettres édifiantes."

[12] "In all the tribes," says Volney, in his "Tableau des États-Unis," p. 423, "there still exists a generation of old warriors, who can not forbear, when they see their countrymen using the hoe, from exclaiming against the degradation of ancient manners, and asserting that the savages owe their decline to these innovations; adding, that they have only to return to their primitive habits in order to recover their power and their glory.

[13] The following description occurs in an official document: "Until a young man has been engaged with an enemy, and has performed some acts of valour, he gains no consideration, but is regarded merely as a woman. In their great war-dances all the warriors in succession strike the post, as it is called, and recount their exploits. On these occasions their auditory consists of the kinsmen, friends, and comrades of the narrator. The profound impression which his discourse produces on them is manifested by the silent attention it receives, and by the loud shouts which hail its termination. The young man who finds himself at such a meeting without anything to recount is very unhappy; and instances have sometimes occurred of young warriors, whose passions had been thus inflamed, quitting the war-dance suddenly, and going off alone to seek trophies which they might exhibit, and adventures which they might be allowed to relate."

[14] These nations are now swallowed up in the States of Georgia, Tennessee, Alabama, and Mississippi. There were formerly in the South four great nations (remnants of which still exist), the Choctaws, the Chickasaws, the Creeks, and the Cherokees. The remnants of these four nations amounted, in 1830, to about 75,000 individuals. It is computed that there are now remaining in the territory occupied or claimed by the Anglo-American Union about 300,000 Indians. (See "Proceedings of the Indian Board in the City of New York.") The official documents supplied to Congress make the number amount to 313,130. The reader who is curious to know the names and numerical strength of all the tribes which inhabit the Anglo-American territory should consult the documents I refer to. ("Legislative Documents, 20th Congress," No. 117, pp. 90–105.)

[15] I brought back with me to France one of two copies of this singular publication.

[16] See in the "Report of the Committee on Indian Affairs," 21st Congress, No. 227, p. 23, the reasons for the multiplication of Indians of mixed blood among the Cherokees. The principal cause dates from the War of Independence. Many Anglo-Americans of Georgia, having taken the side of England, were obliged to retreat among the Indians, where they married.

[17] Unhappily the mixed race has been less numerous and less influential in North America than in any other country. The American continent was peopled by two great nations of Europe, the French and the English. The former were not slow in connecting themselves with the daughters of the natives, but there was an unfortunate affinity between the Indian character and their own: instead of giving the tastes and

habits of civilized life to the savages, the French too often grew passionately fond of the state of wild freedom they found them in. They became the most dangerous of the inhabitants of the desert, and won the friendship of the Indian by exaggerating his vices and his virtues. M. de Senonville, the Governor of Canada, wrote thus to Louis XIV in 1685: "It has long been believed that in order to civilize the savages we ought to draw them nearer to us. But there is every reason to suppose we have been mistaken. Those which have been brought into contact with us have not become French, and the French who have lived among them are changed into savages, affecting to dress and live like them." ("History of New France," by Charlevoix, vol. ii, p. 345.) The Englishman, on the contrary, continuing obstinately attached to the customs and the most insignificant habits of his forefathers, has remained in the midst of the American solitudes just what he was in the bosom of European cities; he would not allow of any communication with savages whom he despised, and avoided with care the union of his race with theirs. Thus while the French exercised no salutary influence over the Indians, the English have always remained alien from them.

[18] There is in the adventurous life of the hunter a certain irresistible charm, which seizes the heart of man and carries him away in spite of reason and experience. This is plainly shown by the memoirs of Tanner. Tanner is a European who was carried away at the age of six by the Indians, and has remained thirty years with them in the woods. Nothing can be conceived more appalling than the miseries which he describes. He tells us of tribes without a chief, families without a nation to call their own, men in a state of isolation, wrecks of powerful tribes wandering at random amid the ice and snow and desolate solitudes of Canada. Hunger and cold pursue them; every day their life is in jeopardy. Among these men manners have lost their empire, traditions are without power. They become more and more savage. Tanner shared in all these miseries; he was aware of his European origin; he was not kept away from the whites by force; on the contrary, he came every year to trade with them, entered their dwellings, and witnessed their enjoyments; he knew that whenever he chose to return to civilized life he was perfectly able to do so—and he remained thirty years in the deserts. When he came into civilized society he declared that the rude existence which he described had a secret charm for him which he was unable to define; he returned to it again and again; at length he abandoned it with poignant regret; and when he was at length fixed among the whites, several of his children refused to share his tranquil and easy situation. I saw Tanner myself at the lower end of Lake Superior; he seemed to me to be more like a savage than a civilized being. His book is written without either taste or order; but he gives, even unconsciously, a lively picture of the prejudices, the passions, the vices, and, above all, of the destitution in which he lived.

[19] The destructive influence of highly civilized nations upon others which are less so, has been exemplified by the Europeans themselves. About a century ago the French founded the town of Vincennes upon the Wabash, in the middle of the desert; and they lived there in great plenty until the arrival of the American settlers, who first ruined the previous

inhabitants by their competition, and afterward purchased their lands at a very low rate. At the time when M. de Volney, from whom I borrow these details, passed through Vincennes, the number of the French was reduced to a hundred individuals, most of whom were about to pass over to Louisiana or to Canada. These French settlers were worthy people, but idle and uninstructed; they had contracted many of the habits of savages. The Americans, who were perhaps their inferiors, in a moral point of view, were immeasurably superior to them in intelligence; they were industrious, well-informed, rich, and accustomed to govern their own community.

I myself saw in Canada, where the intellectual difference between the two races is less striking, that the English are the masters of commerce and manufacture in the Canadian country, that they spread on all sides, and confine the French within limits which scarcely suffice to contain them. In like manner, in Louisiana, almost all activity in commerce and manufacture centres in the hands of the Anglo-Americans.

But the case of Texas is still more striking: the State of Texas is a part of Mexico, and lies upon the frontier between that country and the United States. In the course of the last few years the Anglo-Americans have penetrated into this province, which is still thinly peopled; they purchase land, they produce the commodities of the country, and supplant the original population. It may easily be foreseen that if Mexico takes no steps to check this change, the province of Texas will very shortly cease to belong to that Government.

If the different degrees—comparatively so slight—which exist in European civilization produce results of such magnitude, the consequences which must ensue from the collision of the most perfect European civilization with Indian savages may readily be conceived.

[20] See in the "Legislative Documents" (21st Congress, No. 89) instances of excesses of every kind committed by the whites upon the territory of the Indians, either in taking possession of a part of their lands, until compelled to retire by the troops of Congress, or carrying off their cattle, burning their houses, cutting down their corn, and doing violence to their persons. It appears, nevertheless, from all these documents that the claims of the natives are constantly protected by the Government from the abuse of force. The Union has a representative agent continually employed to reside among the Indians; and the report of the Cherokee agent, which is among the documents I have referred to, is almost always favourable to the Indians. "The intrusion of whites," he says, "upon the lands of the Cherokees would cause ruin to the poor, helpless, and inoffensive inhabitants." And he further remarks upon the attempts of the State of Georgia to establish a division line for the purpose of limiting the boundaries of the Cherokees, that the line drawn having been made by the whites, and entirely upon ex parte evidence of their several rights, was of no validity whatever.

[21] In 1829 the State of Alabama divided the Creek territory into counties, and subjected the Indian population to the power of European magistrates.

In 1830 the State of Mississippi assimilated the Choctaws and Chickasaws to the white population, and declared that any of them that should

take the title of chief would be punished by a fine of 1,000 dollars and a year's imprisonment. When these laws were enforced upon the Choctaws, who inhabited that district, the tribe assembled, their chief communicated to them the intentions of the whites, and read to them some of the laws to which it was intended that they should submit; and they unanimously declared that it was better at once to retreat again into the wilds.

[22] The Georgians, who are so much annoyed by the proximity of the Indians, inhabit a territory which does not at present contain more than seven inhabitants to the square mile. In France there are one hundred and sixty-two inhabitants to the same extent of country.

[23] In 1818 Congress appointed commissioners to visit the Arkansas territory, accompanied by a deputation of Creeks, Choctaws, and Chickasaws. This expedition was commanded by Messrs. Kennerly, M'Coy, Wash Hood, and John Bell. See the different reports of the commissioners, and their journal, in the "Documents of Congress," No. 87, House of Representatives.

[24] The fifth article of the treaty made with the Creeks in August, 1790, is in the following words: "The United States solemnly guarantee to the Creek nation all their land within the limits of the United States."

The seventh article of the treaty concluded in 1791 with the Cherokees says: "The United States solemnly guarantee to the Cherokee nation all their lands not hereby ceded." The following article declared that if any citizen of the United States or other settler not of the Indian race should establish himself upon the territory of the Cherokees, the United States would withdraw their protection from that individual, and give him up to be punished as the Cherokee nation should think fit.

[25] This does not prevent them from promising in the most solemn manner to do so. See the letter of the President addressed to the Creek Indians, March 23, 1829. ("Proceedings of the Indian Board," in the city of New York, p. 5.) "Beyond the great river Mississippi, where a part of your nation has gone, your father has provided a country large enough for all of you, and he advises you to remove to it. There your white brothers will not trouble you; they will have no claim to the land, and you can live upon it, you and all your children, as long as the grass grows, or the water runs, in peace and plenty. It will be yours forever."

The Secretary of War, in a letter written to the Cherokees, April 18, 1829 (see the same work, p. 6), declares to them that they can not expect to retain possession of the lands at that time occupied by them, but gives them the most positive assurance of uninterrupted peace if they would remove beyond the Mississippi: as if the power which could not grant them protection then, would be able to afford it to them hereafter!

[26] To obtain a correct idea of the policy pursued by the several States and the Union with respect to the Indians, it is necessary to consult, 1st, "The Laws of the Colonial and State Governments relating to the Indian Inhabitants." (See the "Legislative Documents," 21st Congress, No. 319.) 2d, "The Laws of the Union" on the same subject, and especially that of March 30, 1802. (See Story's "Laws of the United States.") 3d, "The Report of Mr. Cass, Secretary of War, relative to Indian Affairs," November 29, 1823.

[27] December 18, 1829.

[28] The honour of this result is, however, by no means due to the Spaniards. If the Indian tribes had not been tillers of the ground at the time of the arrival of the Europeans, they would unquestionably have been destroyed in South as well as in North America.

[29] See, among other documents, the report made by Mr. Bell in the name of the Committee on Indian Affairs, February 24, 1830, in which is most logically established and most learnedly proved that "the fundamental principle that the Indians had no right by virtue of their ancient possession, either of will or sovereignty, has never been abandoned either expressly or by implication." In perusing this report, which is evidently drawn up by an experienced hand, one is astonished at the facility with which the author gets rid of all arguments founded upon reason and natural right, which he designates as abstract and theoretical principles. The more I contemplate the difference between civilized and uncivilized man with regard to the principles of justice, the more I observe that the former contests the justice of those rights which the latter simply violates.

[30] It is well known that several of the most distinguished authors of antiquity, and among them Æsop and Terence, were, or had been slaves. Slaves were not always taken from barbarous nations, and the chances of war reduced highly civilized men to servitude.

[31] To induce the whites to abandon the opinion they have conceived of the moral and intellectual inferiority of their former slaves, the negroes must change; but as long as this opinion subsists, to change is impossible.

[32] In "Jefferson's Memoirs" are to be found some curious details concerning the introduction of negroes into Virginia, and the first Act which prohibited the importation of them in 1778.

[33] The number of slaves was less considerable in the North, but the advantages resulting from slavery were not more contested there than in the South. In 1740, the Legislature of the State of New York declared that the direct importation of slaves ought to be encouraged as much as possible, and smuggling severely punished in order not to discourage the fair trader. (Kent's "Commentaries," vol. ii, p. 206.) Curious researches, by Belknap, upon slavery in New England, are to be found in the "Historical Collection of Massachusetts," vol. iv, p. 193. It appears that negroes were introduced there in 1630, but that the legislation and manners of the people were opposed to slavery from the first; see also, in the same work, the manner in which public opinion, and afterward the laws, finally put an end to slavery.

[34] Not only is slavery prohibited in Ohio, but no free negroes are allowed to enter the territory of that State, or to hold property in it. See the "Statutes of Ohio."

[35] The activity of Ohio is not confined to individuals, but the undertakings of the State are surprisingly great: a canal has been established between Lake Erie and the Ohio, by means of which the valley of the Mississippi communicates with the river of the North, and the European commodities which arrive at New York may be forwarded by water to New Orleans across five hundred leagues of continent.

[36] The exact numbers given by the census of 1830 were: Kentucky, 688,844; Ohio, 937,679.

[37] Independently of these causes, which, wherever free workmen abound, render their labour more productive and more economical than that of slaves, another cause may be pointed out which is peculiar to the United States: sugar-cane has hitherto been cultivated with success only upon the banks of the Mississippi, near the mouth of that river in the Gulf of Mexico. In Louisiana the cultivation of sugar-cane is exceedingly lucrative, and nowhere does a labourer earn so much by his work, and, as there is always a certain relation between the cost of production and the value of the produce, the price of slaves is very high in Louisiana. But Louisiana is one of the Confederate States, and slaves may be carried thither from all parts of the Union; the price given for slaves in New Orleans consequently raises the value of slaves in all the other markets. The consequence of this is that, in the countries where the land is less productive, the cost of slave labour is still very considerable, which gives an additional advantage to the competition of free labour.

[38] A peculiar reason contributes to detach the two last-mentioned States from the cause of slavery. The former wealth of this part of the Union was principally derived from the cultivation of tobacco. This cultivation is specially carried on by slaves; but within the last few years the market-price of tobacco has diminished, while the value of the slaves remains the same. Thus the ratio between the cost of production and the value of the produce is changed. The natives of Maryland and Virginia are therefore more disposed than they were thirty years ago to give up slave-labour in the cultivation of tobacco, or to give up slavery and tobacco at the same time.

[39] The States in which slavery is abolished usually do what they can to render their territory disagreeable to the negroes as a place of residence; and as a kind of emulation exists between the different States in this respect, the unhappy blacks can only choose the least of the evils which beset them.

[40] There is a very great difference between the mortality of the blacks and of the whites in the States in which slavery is abolished; from 1820 to 1831 only one out of forty-two individuals of the white population died in Philadelphia; but one negro out of twenty-one individuals of the black population died in the same space of time. The mortality is by no means so great among the negroes who are still slaves.

[41] This is true of the spots in which rice is cultivated; rice-grounds, which are unwholesome in all countries, are particularly dangerous in those regions which are exposed to the beams of a tropical sun. Europeans would not find it easy to cultivate the soil in that part of the New World if it must necessarily be made to produce rice; but may they not subsist without rice-grounds?

[42] These States are nearer to the equator than Italy and Spain, but the temperature of the continent of America is very much lower than that of Europe.

[43] The Spanish Government formerly caused a certain number of peasants from the Azores to be transported into a district of Louisiana called Attakapas, by way of experiment. These settlers still cultivate the soil

without the assistance of slaves, but their industry is so languid as scarcely to supply their most necessary wants.

[44] We find it asserted in an American work, entitled "Letters on the Colonization Society," by Mr. Carey, 1833, "that for the last forty years the black race has increased more rapidly than the white race in the State of South Carolina; and that if we take the average population of the five States of the South into which slaves were first introduced—viz., Maryland, Virginia, South Carolina, North Carolina, and Georgia—we shall find that from 1790 to 1830 the whites have augmented in the proportion of 80 to 100, and the blacks in that of 112 to 100."

In the United States, in 1830, the population of the two races stood as follows:

States where slavery is abolished, 6,565,434 whites; 120,520 blacks. Slave States, 3,960,814 whites; 2,208,102 blacks.

[45] This opinion is sanctioned by authorities infinitely weightier than anything that I can say: thus, for instance, it is stated in the "Memoirs of Jefferson" (as collected by M. Conseil): "Nothing is more clearly written in the book of destiny than the emancipation of the blacks; and it is equally certain that the two races will never live in a state of equal freedom under the same government, so insurmountable are the barriers which nature, habit, and opinions have established between them."

[46] If the British West India planters had governed themselves, they would assuredly not have passed the Slave Emancipation Bill which the mother-country has recently imposed upon them.

[47] This society assumed the name of "The Society for the Colonization of the Blacks." See its annual reports; and more particularly the fifteenth. See also the pamphlet, to which allusion has already been made, entitled "Letters on the Colonization Society, and on its Probable Results," by Mr. Carey, Philadelphia, 1833.

[48] This last regulation was laid down by the founders of the settlement; they apprehended that a state of things might arise in Africa similar to that which exists on the frontiers of the United States, and that if the negroes, like the Indians, were brought into collision with a people more enlightened than themselves, they would be destroyed before they could be civilized.

[49] Nor would these be the only difficulties dependent upon the undertaking; if the Union undertook to buy up the negroes now in America, in order to transport them to Africa, the price of slaves, increasing with their scarcity, would soon become enormous; and the States of the North would never consent to expend such great sums for a purpose which would procure such small advantages to themselves. If the Union took possession of the slaves in the Southern States by force, or at a rate determined by law, an insurmountable resistance would arise in that part of the country. Both alternatives are equally impossible.

[50] In 1830 there were in the United States 2,010,327 slaves and 319,439 free blacks, in all 2,329,766 negroes; which formed about one fifth of the total population of the United States at that time.

END OF VOL. I